

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

UNITED STATES OF AMERICA) Docket No. A 12-CR-210(6) SS
)
vs.) Austin, Texas
)
FRANCISCO ANTONIO)
COLORADO-CESSA) September 5, 2013

TRANSCRIPT OF SENTENCING
BEFORE THE HONORABLE SAM SPARKS

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I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
<u>Witnesses:</u>				

Ramon Segura-Flores

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Steven Pennington

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58,60

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Scott Lawson

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E X H I B I T SGovernment'sOfferedAdmitted

(None.)

Defendant's

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08:58:28

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08:58:38 1 THE COURT: The Court calls 12-CR-210, United States
08:58:41 2 vs. Jose Trevino-Morales for announcements.

08:58:44 3 MR. GARDNER: Your Honor, good morning.

08:58:46 4 Doug Gardner, Michelle Fernald, and Ms. Diana
08:58:49 5 Cruz-Zapata and Daniel Castillo for the asset forfeiture for the
08:58:53 6 United States.

08:58:55 7 MR. LECHTENBERGER: Your Honor, Kirk Lechtenberger for
08:58:57 8 Mr. Trevino.

08:59:02 9 THE COURT: I still have a question mark as to all
08:59:06 10 other counsel. I still have no information from Mr. Trevino
08:59:11 11 whether or not he wished to sever his relationship with Mr. Finn
08:59:17 12 and Ms. Williams. Would you educate me on that?

08:59:21 13 MR. LECHTENBERGER: Would you like Mr. Trevino to
08:59:23 14 address the Court sufficiently? Or would it be just sufficient
08:59:25 15 for me to tell you?

08:59:26 16 THE COURT: As an officer of this court.

08:59:28 17 MR. LECHTENBERGER: Fair enough.

08:59:29 18 Mr. Trevino has told me -- and I've told Mr. Finn and
08:59:30 19 Ms. Williams -- that he no longer wants to have anything to do
08:59:34 20 with him, your Honor.

08:59:35 21 THE COURT: Mr. Finn, and, Ms. Williams, if you'll file
08:59:38 22 a motion to withdraw, I will sign them.

08:59:43 23 MS. WILLIAMS: Do you want us to file another motion to
08:59:44 24 withdraw, your Honor? We have one on file that you denied.

08:59:46 25 THE COURT: I denied that one because of the presence

08:59:48 1 of the sentencing date. Yes. Just file a second motion, I'll be
08:59:51 2 glad to sign anytime. And you're excused from further attendance
08:59:56 3 today, if you wish, or you can stay --

08:59:59 4 MS. WILLIAMS: Thank you, your Honor.

08:59:59 5 THE COURT: -- in the courtroom. All right. Thank
09:00:04 6 you, sir.

09:00:06 7 Francisco Antonio Colorado-Cessa.

09:00:11 8 MR. DEGEURIN: Your Honor, Mike DeGeurin and Andres
09:00:15 9 Sanchez for Mr. Colorado. We also have Andy Parker and John
09:00:20 10 Parras with me.

09:00:22 11 THE COURT: All right.

09:00:24 12 Fernando Solis.

09:00:27 13 MR. WOMACK: Good morning, your Honor.

09:00:28 14 Guy Womack for Mr. Garcia.

09:00:29 15 THE COURT: Mr. Womack.

09:00:30 16 Mr. Lopez, I will call later. And Eusevio
09:00:39 17 Maldonado-Huitron.

09:00:41 18 MR. ESPER: Good morning, Judge Sparks.

09:00:42 19 Richard Esper for Mr. Huitron. We're ready.

09:00:46 20 THE COURT: Counsel, the way I anticipate that we will
09:00:49 21 proceed in sentencing, by the way, you can see that there are no
09:00:54 22 available seats. We've attempted to set up the jury room, but
09:01:02 23 we've had some wiring difficulties. Of course, still have a new
09:01:09 24 courthouse, but that was very poorly done, and we have not been
09:01:15 25 able to redo that. So the overflow is sitting with audio in the

09:01:24 1 ceremonial courtroom on the first row. We're going to have some
09:01:30 2 preliminary proceedings that deal with objections to the
09:01:35 3 presentence investigation that has gone on on these defendants,
09:01:40 4 and they will take into consideration four of those that are to
09:01:45 5 be sentenced today.

09:01:48 6 But when your family member has been sentenced, I'm
09:01:54 7 going to ask you if you will give your seat to the family members
09:01:58 8 of the next person that is to be sentenced -- and the security
09:02:05 9 people will help you with that, if necessary -- and that way, you
09:02:09 10 can assure that family members of each of the defendants at this
09:02:17 11 sentencing can be present.

09:02:18 12 I intend to take up the objections of Mr. Trevino, Mr.
09:02:29 13 Colorado-Cessa, Mr. Garcia, and Mr. Huitron together because it's
09:02:35 14 my understanding because I know the defense of the prosecution
09:02:39 15 intends to present evidence on these objections. But let's take
09:02:43 16 into consideration first, is it Lechtenberger?

09:02:54 17 MR. LECHTENBERGER: Yes, your Honor. That's close
09:02:55 18 enough.

09:02:55 19 THE COURT: How is it?

09:02:59 20 MR. LECHTENBERGER: Lechtenberger, your Honor.

09:03:00 21 THE COURT: Lechtenberger. Do you intend to present
09:03:09 22 any evidence?

09:03:11 23 MR. LECHTENBERGER: No, your Honor, other than what
09:03:12 24 I've already stated in writing.

09:03:17 25 THE COURT: Mr. DeGeurin, do you intend to present any

09:03:20 1 evidence?

09:03:22 2 MR. DEGEURIN: We do, your Honor.

09:03:23 3 THE COURT: All right. Mr. Womack, do you wish to
09:03:27 4 introduce evidence on your objections? And we're talking about
09:03:30 5 the objection on the case.

09:03:32 6 MR. WOMACK: No, your Honor.

09:03:35 7 THE COURT: And, Mr. Esper?

09:03:37 8 MR. ESPER: Your Honor, my objections in my sentencing
09:03:39 9 memorandum cover everything.

09:03:40 10 THE COURT: I have all of that. I'm just wondering if
09:03:42 11 you --

09:03:42 12 MR. ESPER: No.

09:03:43 13 THE COURT: All right. Mr. DeGeurin, you may call your
09:03:46 14 witness. Now, this is on the base.

09:03:53 15 MR. DEGEURIN: Your Honor, I announced that we were
09:03:55 16 going to put on evidence because I was told by Mr. Gardner this
09:03:57 17 morning, he's going to call three witnesses. The witness that
09:04:00 18 we're going to call is in rebuttal to them.

09:04:02 19 THE COURT: Well, it's not in rebuttal. You made the
09:04:05 20 objection. If you have any witnesses, call them now.

09:04:09 21 MR. DEGEURIN: All right. Call Ramon Segura. Your
09:04:14 22 Honor, Mr. Andres Sanchez, with the Court's permission, is going
09:04:18 23 to handle the objections. If we can work together on this, I'd
09:04:23 24 appreciate it.

09:04:24 25 THE COURT: It depends on what working together is.

09:04:27 1 MR. DEGEURIN: Well, I mean, we're not going to both
09:04:28 2 ask questions to the witness.

09:04:29 3 THE COURT: Right. I knew that.

09:04:34 4 If you'll come forward, please, sir. This is the clerk
09:04:46 5 of the Court. She's going to administer an oath to you.

09:04:53 6 (Witness sworn.)

09:05:17 7 THE COURT: Just relax. Don't pay any attention to
09:05:19 8 that microphone. It will pick up with everything you say. And I
09:05:23 9 want you to tell me your full name and spell your last name.

09:05:31 10 THE WITNESS: My name is Ramon Segura-Flores. My first
09:05:41 11 name is R-A-M-O-N. And my last name is Segura, S-E-G-U-R-A.

09:05:56 12 THE COURT: It's your witness.

09:05:59 13 MR. SANCHEZ: Thank you, your Honor.

09:05:59 14 And Mr. Segura appears in the video and he gives an
09:06:03 15 introduction as to who he is in the video. Just so the Court's
09:06:08 16 aware. Some of that information's already in the record.

09:06:12 17 THE COURT: I'll take up individually all of the
09:06:15 18 materials that we have reviewed or I have reviewed. And I've had
09:06:21 19 the video reviewed.

09:05:57 20 RAMON SEGURA-FLORES, called by the Defendant, duly sworn.

09:05:57 21 DIRECT EXAMINATION

09:06:24 22 BY MR. SANCHEZ:

09:06:24 23 Q. Mr. Segura, can you introduce yourself and as far as what is
09:06:29 24 your role when it comes to ADT?

09:06:54 25 A. My duties are I do all the followup work on all the projects

09:07:22 1 that ADT has. I make sure payments are made. I make sure I
09:07:27 2 follow up on contract fulfillment, I follow up on all invoices,
09:07:31 3 contracts, and other documents. I'm full partner according to
09:07:35 4 the charter of the corporation. So my job is primarily to track
09:07:41 5 the income and the contract fulfillment of the agency.

09:07:45 6 Q. And when did you start working at ADT?

09:07:56 7 A. As I said, I'm one of the founding partners of the firm as
09:08:00 8 of May 15, 2001.

09:08:02 9 Q. And I want to talk about two sets of information. First, I
09:08:09 10 want to talk about, roughly, 38 transactions that occurred
09:08:14 11 between 2008 and 2012; and then, later, I want to talk to you
09:08:20 12 about your role in purchasing machinery throughout your time at
09:08:26 13 ADT but, also, specifically, between the years 2003 and 2007.

09:08:37 14 Did you have an opportunity to go through and look at,
09:08:42 15 roughly, 38 transactions beginning in August of 2008?

09:08:52 16 A. Yes.

09:08:55 17 Q. And what was the first transaction that you looked at?

09:09:11 18 A. The first transaction was for the \$350,000 -- can I look
09:09:15 19 at --

09:09:16 20 Q. Yes, please. Refer to your notes if you need to.

09:09:20 21 And, your Honor, what he's looking at was provided with
09:09:24 22 our original objections. He's got a little bit more information.
09:09:27 23 We've provided the same copy that he now has to the government,
09:09:34 24 and we'll, in other words, exchange that for the set that we
09:09:36 25 included with our original objections.

09:09:46 1 THE COURT: So what you're telling me is there are
09:09:49 2 additions to what was presented to the probation department,
09:09:54 3 which I've reviewed.

09:09:56 4 MR. SANCHEZ: That's correct, your Honor.

09:09:57 5 THE COURT: All right.

09:09:58 6 MR. SANCHEZ: Minimal additions, but a full copy will
09:10:00 7 replace the original copy at -- when we're done here today.

09:10:03 8 THE COURT: All right, sir.

09:10:06 9 Q. (BY MR. SANCHEZ) So what was the first series of
09:10:08 10 transactions that you looked at?

09:10:48 11 A. The first transaction I looked at was the American Express
09:10:51 12 checks and what I did -- my first step in the analysis is I tried
09:10:56 13 to confirm the level traceability of these checks. These checks
09:11:01 14 were issued from an American Express bank that was held here in
09:11:03 15 the U.S. using the ADT and account at Bancomer. This Bancomer
09:11:21 16 account is the one that the clients who make their payments
09:11:25 17 regarding those jobs have been completed, the clients pay into
09:11:28 18 that account.

09:11:29 19 Q. And what is the -- who is the primary client of ADT?

09:11:40 20 A. Pemex.

09:11:41 21 Q. And so, were you able to see that money was deposited from
09:11:45 22 Pemex into the Bancomer account and then, from Bancomer into the
09:11:49 23 American Express account?

09:12:02 24 A. That's correct. We traced the movement of the funds, and it
09:12:24 25 was verified that Pemex made the payments in the Bancomer, and

09:12:28 1 the Bancomer account was transferred to the American Express
09:12:32 2 account.

09:12:33 3 Q. At any point, did you receive any information to suggest
09:12:38 4 that cash was deposited into that Bancomer account and then, cash
09:12:44 5 -- or that money was eventually sent to American Express?

09:12:58 6 A. No. All the funds that were transferred were funds that had
09:13:20 7 been deposited by Petroleos Mexicanos due to invoices that had
09:13:25 8 been sent because of the projects had been completed. There were
09:13:28 9 no funds transferred to the American Express account that came
09:13:32 10 from cash deposits.

09:13:34 11 Q. I want to jump forward to September of 2009. Did you have
09:13:40 12 the chance to look at, specifically, a check from Laredo National
09:13:45 13 Bank in the amount of \$30,000?

09:14:04 14 A. Yes. That's correct.

09:14:07 15 Q. And can you explain to us, ultimately, what did you find to
09:14:11 16 be the source of that funds of the \$30,000? And can you explain
09:14:15 17 the process, how it ended up in Laredo National Bank?

09:14:55 18 A. They were -- there's some transfers that were made from an
09:14:58 19 ADT account due to payments made by Pemex because of jobs that
09:15:03 20 had been completed and invoiced for that time.

09:15:08 21 Q. And the next check in September 10th -- or, sorry, September
09:15:12 22 of 2010, I'm going to skip over that, your Honor, because that
09:15:16 23 one we went over in trial, and there's actually a trial exhibit
09:15:19 24 specifically to that.

09:15:21 25 The next one I want to talk to you about is a wire from

09:15:25 1 Monex to a Felipe Quintero in the amount of \$90,000. Did you
09:15:30 2 analyze the source of the money for that \$90,000?

09:16:01 3 A. Yes, I -- yes. I was able to look at those. I did the same
09:16:36 4 -- I traced it just like I had in another situation. This
09:16:39 5 transfer of funds was initiated from ADT Petro Servicios because
09:16:44 6 of work done for its client Pemex, which was then directly
09:16:47 7 transferred to Mr. Quintero's account because of the work he had
09:16:51 8 done at the direction of ADT.

09:16:54 9 Q. And is everything that you're testifying about, are there
09:17:00 10 supporting documents in the binder in front of you?

09:17:11 11 A. Correct.

09:17:14 12 Q. Did you do the same thing for the next few transactions in
09:17:19 13 2010 and in the beginning of 2011?

09:17:31 14 A. That's correct.

09:17:32 15 Q. I want to talk about a transaction in April of 2005 -- or,
09:17:38 16 sorry, 2011 from the UBS account. There's a \$300,000 wire
09:17:57 17 transfer from the UBS account to Mola Racing. Do you recall
09:18:02 18 that?

09:18:10 19 A. Yes. I remember it clearly.

09:18:12 20 Q. To determine the source of funds for that particular
09:18:16 21 transfer, did you analyze the UBS accounts and the money going
09:18:20 22 into the UBS accounts?

09:18:35 23 A. Yes. That's correct.

09:18:36 24 Q. And what did you find?

09:19:01 25 A. Those were funds that came from ADT Petro Servicios that

09:19:06 1 were then transferred to UBS. UBS was -- the UBS account was an
09:19:09 2 investment account. These funds came through payments made by
09:19:15 3 ADT Petro Servicios' primary client Pemex for services provided.
09:19:25 4 Q. Again, the transactions in 2011 -- in September of 2011, did
09:19:31 5 you do the same analysis that you did about those transactions
09:19:36 6 similar to the analysis that we've talked about so far?
09:19:53 7 A. That's correct.
09:19:54 8 Q. And were the source of the funds ultimately Pemex?
09:20:06 9 A. That's correct.
09:20:07 10 Q. I want to talk to you briefly about a transaction on October
09:20:13 11 4th of 2011. Do you remember that transaction? It's the
09:20:28 12 transaction from PIIG Del Noreste?
09:20:31 13 A. What's the amount?
09:20:33 14 Q. \$802,135?
09:20:42 15 A. Yes. Correct.
09:20:44 16 Q. Can you tell us about that particular transaction?
09:21:22 17 A. What we were able to determine was the funds that were in
09:21:24 18 the PIIG Northeast account, we did a tracing of those funds and
09:21:28 19 were able to determine that the funds in the PIIG Northeast
09:21:30 20 account came from ADT Petro Servicios' funds because these were
09:21:37 21 then deposited into account No. 9898735, which had been -- which
09:21:43 22 was the account that had been designated for Pemex to make
09:21:46 23 payment for those services rendered.
09:21:51 24 Q. Moving on, did you look at two loans that ADT obtained in
09:22:02 25 November of 2011 or two loan payments?

09:22:16 1 A. Yes.

09:22:16 2 Q. And I want to talk to you specifically about the four
09:22:23 3 repayments of that loan or those loans and other associated loans
09:22:29 4 beginning in November of 2011, December of 2011, February of 2012
09:22:35 5 and April of 2012.

09:22:50 6 A. Okay.

09:22:51 7 Q. Those repayments to that loan or for that loan, were those
09:22:57 8 the source of funds for those repayments, were they -- what was
09:23:03 9 the source of those funds, in other words?

09:23:22 10 A. What is the loan amount that you're referring to?

09:23:24 11 Q. The total loan amount would be around \$1.7 million. But I'm
09:23:37 12 specifically asking about the \$733,000 that was paid directly
09:23:44 13 from the loaner to an auction house?

09:24:06 14 A. Yes. You're referring to the Arian Jaff loans.

09:24:12 15 Q. That's correct.

09:24:51 16 A. Yes. Those payments were made -- or those credits were paid
09:24:57 17 by funds that came from the ADT Petro Servicios account,
09:25:02 18 specifically, the account No. 9898735, which is the account to
09:25:07 19 which our largest client Pemex was to make all of its payments.
09:25:12 20 The funds were -- came from -- the initial funds from the loan
09:25:17 21 had come from a Santander account that was held by Mr. Arian
09:25:43 22 Jaff. And this just highlights how most of the income from ADT
09:25:50 23 Petro Servicios comes from our largest client Pemex which are
09:25:55 24 payments made into the Bilbao Bank -- Bancomer into account No.
09:26:00 25 9898735.

09:26:04 1 THE COURT: Now, let's wait for a question. I've
09:26:07 2 allowed a lot of leading questions up until now because of the
09:26:13 3 translation, but now he's starting to make arguments.

09:26:16 4 Now, the second thing is, when you said payments by a
09:26:22 5 loaner, that's payments by one who made the loan as far as the
09:26:29 6 English language is concerned. Can you tell me the name of who
09:26:33 7 you're referring to? It's not a borrower, or is it a borrower?
09:26:42 8 Did he mean the borrower?

09:26:42 9 MR. SANCHEZ: Your Honor, if you'll recall from the
09:26:43 10 trial, in November of 2011, there was a payment made to one of
09:26:48 11 the auction houses. I think it was Los Alamitos.

09:26:52 12 THE COURT: It was part of the horses for a million,
09:26:55 13 700,000 or something.

09:26:56 14 MR. SANCHEZ: No, your Honor.

09:26:57 15 There was a total loan that ADT took out for \$1.7
09:27:01 16 million. 700,000 of that, instead of going directly to ADT, went
09:27:06 17 directly to an auction house. So not -- what I was trying to get
09:27:12 18 or I think we got was -- I mean, the loan payment I don't think
09:27:16 19 is disputed that there's the money that the loan was paid out
09:27:21 20 essentially from a bank that went to the auction house, that's
09:27:23 21 not proceeds of illegal activity.

09:27:26 22 THE COURT: Well, I understand your argument. I'm just
09:27:28 23 asking you, what entity sent -- I don't know what this gentleman
09:27:34 24 testified to. I don't know what a loaner is. I would think a
09:27:39 25 loaner is somebody that loans money.

09:27:41 1 MR. SANCHEZ: And that's exactly how I was using it in
09:27:43 2 the entity --

09:27:44 3 THE COURT: All right. So it was a borrower from ADT
09:27:47 4 that was the borrower.

09:27:49 5 MR. SANCHEZ: Yes.

09:27:49 6 THE COURT: All right.

09:27:51 7 MS. FERNALD: It's Arian Jaff, your Honor.

09:27:53 8 MR. SANCHEZ: And I believe --

09:27:54 9 THE COURT: All right.

09:27:55 10 MR. SANCHEZ: -- Mr. Segura said that, Arian Jaff.

09:28:03 11 Q. (BY MR. SANCHEZ) Did you for the remaining -- and, your
09:28:10 12 Honor, I'd ask to lead just so we avoid having to go through the
09:28:15 13 15 or so --

09:28:15 14 THE COURT: Nobody's made any objections. As long as
09:28:18 15 he's responsive, I'll allow you to lead because -- just because.

09:28:27 16 Q. (BY MR. SANCHEZ) The remaining transactions, did you do a
09:28:30 17 similar analysis with those transactions?

09:28:40 18 A. That's correct.

09:28:43 19 Q. And those transactions, were you able to also determine the
09:28:47 20 source of the funds to be from Pemex?

09:28:59 21 A. That's correct.

09:29:04 22 Q. Hold on. Let me --

09:29:05 23 A. The account No. 9898735.

09:29:11 24 Q. In total, was the total amount of transactions you looked at
09:29:17 25 just over \$10 million?

09:29:27 1 A. That's correct.

09:29:30 2 Q. You talked about that a majority of your -- of ADT's income
09:29:35 3 came from wire transfers from Pemex. Did ADT receive any cash?

09:29:43 4 THE INTERPRETER: The interpreter requests, did ADT
09:29:45 5 receive what?

09:29:47 6 MR. SANCHEZ: Cash.

09:29:58 7 A. No.

09:30:01 8 Q. (BY MR. SANCHEZ) I want to now switch a little bit of the
09:30:12 9 focus to can you tell us what was your role during 2002, 2003 up
09:30:21 10 to 2007 in regards to obtaining the machinery necessary for ADT
09:30:28 11 to fulfill their contracts?

09:31:19 12 A. My job was in Pemex regarding that -- within ADT regarding
09:31:24 13 that was I was the one that worked on all the proposals and bids
09:31:28 14 in response to requests for bids by Pemex regarding specific jobs
09:31:34 15 within the -- hearing they would specify the type of materials,
09:31:39 16 the amount of manpower, and the machinery that would be necessary
09:31:41 17 for that project.

09:32:33 18 I was the one that would look at all these RFPs. I
09:32:36 19 would then analyze one-by-one what would be the need, what we
09:32:40 20 would require to be able to compete on these bids. I would
09:32:43 21 determine and look at whether we would need to buy or rent the
09:32:47 22 machinery necessary. I was fully aware of every single bid that
09:32:52 23 we let out or that we participated in. Starting in 2001, I
09:32:56 24 handled each and every one of them. I would study the RFPs. I
09:33:01 25 would then look at what would be required of us, what machine we

09:33:04 1 would need, and equipment we would need. I would decide -- I was
09:33:08 2 involved in deciding whether it would be bought or rented, what
09:33:11 3 kind of investments we would need to be able to fulfill that
09:33:13 4 project.

09:33:14 5 Q. During that time period, if ADT acquired equipment through a
09:33:23 6 \$6 million cash loan, would you know about it?

09:33:37 7 A. Absolutely. Categorically, I would have been aware of it
09:33:48 8 because I handled each one of the authorizations for the funds
09:33:52 9 necessary to make those kinds of acquisitions.

09:33:55 10 Q. Did that ever occur?

09:34:00 11 A. Never. No.

09:34:10 12 Q. I'll pass witness, your Honor.

09:34:13 13 THE COURT: Any of the defense lawyers wish to question
09:34:15 14 this witness?

09:34:17 15 MR. WOMACK: No, sir.

09:34:18 16 MR. ESPER: I have none.

09:34:19 17 MR. LECHTENBERGER: No, sir.

09:34:21 18 THE COURT: Does the government?

09:34:23 19 CROSS-EXAMINATION

09:34:23 20 BY MS. FERNALD:

09:34:24 21 Q. Mr. Segura, good morning.

09:34:26 22 A. Good morning.

09:34:28 23 Q. You began working with Colorado-Cessa in May of 2001. Is
09:34:42 24 that what you testified to?

09:34:59 25 A. ADT, Petro Servicios was founded and chartered on May 15th,

09:35:04 1 2001, and I was one of the founding members of that firm.

09:35:08 2 Q. And you are part owner of ADT, correct?

09:35:18 3 A. Founding member.

09:35:20 4 Q. How much?

09:35:20 5 A. Founding partner.

09:35:22 6 THE INTERPRETER: Interpreter's correction.

09:35:24 7 Q. (BY MS. FERNALD) I'm sorry? What percentage of ADT do you
09:35:26 8 own?

09:35:36 9 A. .04 percent.

09:35:42 10 THE COURT: What was that answer?

09:35:43 11 THE INTERPRETER: .04 percent.

09:35:49 12 Q. (BY MS. FERNALD) The primary client for ADT Petro Servicios
09:35:54 13 is Pemex; is that correct?

09:36:01 14 A. That's correct.

09:36:04 15 Q. What percentage of business or income is Pemex to ADT?

09:36:17 16 A. Ninety percent.

09:36:19 17 Q. So without the Pemex contracts, ADT would not function on
09:36:24 18 the level that it does, correct?

09:36:36 19 A. That's correct.

09:36:38 20 Q. When ADT was formed in 2001, would it be fair to say that it
09:36:44 21 was a small company?

09:37:11 22 A. When it was established, when it was founded, it was a
09:37:14 23 brand-new company. Any new company starts from zero. All the
09:37:17 24 companies start at zero.

09:37:19 25 Q. Correct. And you knew Colorado-Cessa even prior to the

09:37:25 1 formation of ADT, correct?

09:37:36 2 A. That's correct. Yes.

09:37:38 3 Q. In fact, he was pretty much broke prior to the formation of

09:37:42 4 ADT Petro Servicios, correct?

09:38:02 5 A. He was doing projects with equipment he had.

09:38:12 6 Q. Mr. Segura, have you reviewed the financial statements that

09:38:17 7 were submitted to UBS for loans by Mr. Colorado-Cessa?

09:38:35 8 A. Yes.

09:38:36 9 Q. Do you have any financial statements from 2001 to 2008?

09:38:55 10 A. Can you repeat that again? I didn't understand.

09:39:03 11 Q. My apology. Do you have financial statements for ADT from

09:39:06 12 2001 through 2007?

09:39:13 13 A. Yes.

09:39:14 14 Q. Do you have them present in that notebook?

09:39:18 15 A. No.

09:39:21 16 Q. And where are those financial statements?

09:39:26 17 A. At the firm.

09:39:28 18 Q. Do you have them present here in the United States?

09:39:35 19 A. No.

09:39:38 20 Q. I want to direct your attention to the 38 transactions that

09:39:42 21 you referred to. The notebook that is in front of you refers to

09:39:54 22 the 38 transactions; is that correct?

09:40:02 23 A. True.

09:40:03 24 Q. Did you obtain those documents for Mr. Colorado-Cessa here

09:40:08 25 today?

09:40:18 1 A. Yes.

09:40:19 2 Q. And where did you get those documents from?

09:40:29 3 A. All those -- those documents belong to the firm, to the
09:40:34 4 company.

09:40:34 5 Q. Did you go to the banks and get the documents?

09:40:43 6 A. No.

09:40:43 7 Q. Did you obtain the wires or the checks from Pemex for the
09:40:48 8 underlying funds that came through these accounts?

09:41:02 9 A. I got that from the company.

09:41:05 10 Q. Do you have the wires from Pemex and the checks and/or the
09:41:10 11 checks from Pemex showing the underlying source of these funds?

09:41:36 12 A. That's correct. These are the documents I received from the
09:41:56 13 company, which include the invoices, the statements, and then,
09:42:00 14 when we did the trace of the transfers showing where these funds
09:42:03 15 came from and to -- where the funds into the account came from.

09:42:14 16 Q. When ADT --

09:42:15 17 A. Can I clarify something?

09:42:17 18 Q. Yes. Please.

09:42:29 19 A. Also included is documentation that was provided by the
09:42:31 20 attorneys, right? But the majority of this is from the company.

09:42:41 21 Q. Thank you very much.

09:42:45 22 The funds from Pemex when they paid ADT, did Pemex wire
09:42:55 23 any of those funds into accounts in the United States?

09:43:08 24 A. Never.

09:43:09 25 Q. Where did they -- what country did they wire their funds

09:43:12 1 into?

09:43:19 2 A. In Mexico.

09:43:21 3 Q. Are you, Mr. Segura, are you aware of all of

09:43:41 4 Colorado-Cessa's business activities?

09:44:06 5 A. I am aware of all the activities and transactions of ADT

09:44:18 6 Petro Servicios. Mr. Colorado-Cessa and I are aware of

09:44:22 7 everything that happens with ADT Petro Servicios. We do the

09:44:26 8 followup, we do the project analysis, and we do the results

09:44:29 9 analysis.

09:44:33 10 Q. Are you aware of the government entity of Ministry of Public

09:44:38 11 Service in Mexico?

09:44:51 12 A. I don't know the institution you're referring to.

09:44:55 13 THE COURT: You say the government Ministry of what?

09:44:59 14 A. Public Services?

09:45:00 15 Q. (BY MS. FERNALD) Public Service. To repeat for the

09:45:03 16 translator, Mexican Ministry of Public Service.

09:45:19 17 A. There is no ministries in.

09:45:27 18 Q. Are you aware that the --

09:45:29 19 A. In Mexico, we don't have ministries. There are secretary --

09:45:34 20 there's the secretaries like the one for communications and

09:45:39 21 transportation. Maybe that's what you're talking about? Just to

09:46:00 22 try and clarify, at the cabinet level, whether you want to call

09:46:03 23 it a ministry or a secretary, there is no public service entity.

09:46:07 24 There's nothing that's the equivalent of communications and

09:46:10 25 transportation.

09:46:11 1 Q. So if the Ministry of Public Service in Mexico stated that
09:46:16 2 Pemex was the most corrupt entity in the federal government, you
09:46:21 3 would dispute that?

09:46:41 4 A. That's not something that I can give an opinion on. I --
09:46:49 5 what I do is I focus on my work and making sure my business runs.

09:46:53 6 Q. Are you aware that there are articles in the newspaper
09:46:56 7 reflecting a reorganization as of date with Pemex because of the
09:47:02 8 corruption at Pemex?

09:47:57 9 A. With regards to the Pemex, all I do with Pemex is I am aware
09:48:03 10 of every public RFP that comes out. I analyze those RFPs. I
09:48:09 11 prepare the bids. I participate in the bidding process. I make
09:48:16 12 sure that whatever project is awarded, that we complete that
09:48:18 13 project, and then, I invoice. Regarding that governmental
09:48:22 14 entity, you also hear a lot of positive things about the good
09:48:27 15 things they've done in the environmental sphere, about their good
09:48:30 16 use of the newest technology, about their success in deep water
09:48:34 17 drilling. A lot of things are said about that entity.

09:48:39 18 Q. In 2011, are you aware that the Texas -- excuse me. The
09:48:44 19 Mexican Ministry of Public Administration stated that ADT had
09:48:48 20 falsified documents and charged Pemex for non-performed work?

09:49:56 21 A. There's a lawsuit that we won that was a case brought by the
09:50:02 22 Public Administration Secretary. We won that case. We showed
09:50:06 23 that there were no false billings done. It was a process that
09:50:10 24 held things up for a year and a half. While the things was being
09:50:14 25 handled, we were awarded or granted the first en paro. The

09:50:20 1 government agency has, again, filed new allegations, but they
09:50:24 2 have not been able to demonstrate that any false information or
09:50:28 3 document invoices were presented.

09:50:30 4 Q. In fact, that lawsuit tied up or delayed some of the
09:50:35 5 payments from Pemex, correct?

09:50:48 6 A. No. None.

09:50:50 7 Q. Did it --

09:50:55 8 A. No, because according to the law, any contract that is in
09:51:40 9 force at that time continues functioning. So if the contract was
09:51:45 10 already in force, we continued invoicing, we continued providing
09:51:48 11 the services. Pemex continues paid. The sanction that is
09:51:52 12 applied during the process is that while everything is ongoing,
09:51:57 13 we cannot participate in any future projects or bids. So.

09:52:04 14 Q. Thank you. Thank you.

09:52:11 15 You stated earlier that you were aware of all of
09:52:15 16 Colorado-Cessa's business activities.

09:52:53 17 A. What I'm fully aware of is everything that has to do with
09:52:56 18 ADT Petro Servicios. As to each one of its invoices or the
09:53:00 19 projects that are being undertaken as to the payment, I am aware
09:53:05 20 of all of that, and I work with Mr. Colorado-Cessa in that
09:53:09 21 regard, making sure that the work is being done and that the
09:53:13 22 results are being paid.

09:53:15 23 Q. Are you aware of a \$6 million loan from Efrain Torres, "Zeta
09:53:20 24 14," to Francisco Colorado-Cessa?

09:53:36 25 A. No.

09:53:37 1 Q. Are you aware that that money was to be used to buy
09:53:40 2 machinery for ADT Petro Servicios?

09:54:08 3 A. I'm going to stop here just because I have more to say, but
09:54:59 4 all of the invoices that were presented for the payment of
09:55:02 5 machinery from ADT Petro Servicios was paid from the account
09:55:08 6 wherein we received the moneys from Pemex. That was the account
09:55:12 7 and those were the funds that were used to generate all of our
09:55:16 8 income, to buy all of our machinery, to undertake and complete
09:55:19 9 all of the projects. And that was all generated from the ADT was
09:55:24 10 all -- came into and came out of ADT account, which received its
09:55:28 11 funds from Pemex. I know this because that was my responsibility
09:55:32 12 to pay all of those invoices and expenses.

09:56:06 13 And \$6 million? You could see that that would be
09:56:11 14 easily detected. I want to tell you that all the machinery was
09:56:16 15 paid from the ADT account. All of the income that we generated
09:56:20 16 and received was paid into the ADT account through Pemex, and
09:56:24 17 that all of the invoices were paid from that ADT account.

09:56:28 18 Q. Mr. Segura, are you aware of a \$12 million loan payment to
09:56:37 19 Colorado-Cessa from the Zetas in order to bribe public officials
09:56:43 20 so that ADT could get Pemex contracts? I don't want to --

09:57:48 21 A. If you would allow me, please.

09:57:49 22 THE COURT: Well, the question is a "Yes" or "No." Are
09:57:55 23 you aware or are you not aware? That's all that's being asked at
09:57:58 24 this point.

09:58:03 25 A. Was I aware or not aware?

09:58:05 1 THE COURT: Of an alleged loan of \$12 million. "Yes"
09:58:11 2 or "No"?

09:58:12 3 A. No. I was not.

09:58:13 4 THE COURT: All right.

09:58:13 5 Q. (BY MS. FERNALD) Are you aware of a \$50 million loan payment
09:58:17 6 by the Zetas to Francisco Colorado-Cessa?

09:58:28 7 A. No.

09:58:30 8 Q. When is the last time that you've had any contact with
09:58:33 9 Francisco Colorado-Cessa?

09:58:42 10 A. I have daily.

09:58:44 11 Q. And have since he's been incarcerated?

09:58:49 12 A. Yes.

09:58:50 13 Q. Mr. Segura, have you ever been involved in any fraudulent
09:58:56 14 activities with ADT Petro Servicios and/or Colorado-Cessa?

09:59:11 15 A. Never participated.

09:59:13 16 Q. And, Mr. Segura, finally, have you ever been involved in any
09:59:18 17 criminal activity with ADT Petro Servicios, Francisco
09:59:25 18 Colorado-Cessa, or any activities on behalf of either the company
09:59:31 19 or Mr. Colorado-Cessa?

09:59:47 20 A. No.

09:59:48 21 Q. I remind you that you're under oath.

09:59:52 22 A. Yes, ma'am.

09:59:55 23 Q. Pass the witness.

09:59:59 24 MR. SANCHEZ: Nothing, your Honor.

10:00:00 25 THE COURT: No further? You may step down, sir.

10:00:16 1 MR. SANCHEZ: Your Honor, we don't have any further
10:00:18 2 witnesses at this time. We'd ask, if necessary, to put on a
10:00:20 3 witness in rebuttal, depending on what the government puts on.

10:00:24 4 THE COURT: The government may call their first
10:00:26 5 witness.

10:00:26 6 MR. GARDNER: Your Honor, government calls Special
10:00:28 7 Agent Steve Pennington.

10:00:52 8 (Witness sworn.)

10:00:55 9 THE COURT: Please state your full name and spell your
10:00:57 10 last.

10:00:57 11 THE WITNESS: Steve Pennington, P-E-N-N-I-N-G-T-O-N.

10:01:02 12 STEVE PENNINGTON, called by the Government, duly sworn.

10:01:02 13 DIRECT EXAMINATION

10:01:02 14 BY MR. GARDNER:

10:01:03 15 Q. Thank you, your Honor.

10:01:04 16 You are Special Agent Steve Pennington, one of the case
10:01:07 17 agents in this case, with the IRS Criminal Investigative
10:01:10 18 Division, correct?

10:01:10 19 A. Correct.

10:01:11 20 Q. All right. And you're here to answer questions as to
10:01:15 21 certain objections lodged by Mr. Trevino, Mr. Colorado-Cessa and
10:01:21 22 Mr. Huitron; is that correct?

10:01:23 23 A. Correct.

10:01:23 24 Q. All right. You're not going to address all the objections
10:01:26 25 that's also going to be addressed by Special Agent Lawson and

10:01:29 1 Special Agent Fernald, correct?

10:01:30 2 A. Correct.

10:01:30 3 Q. All right. So I will identify which objection, which

10:01:33 4 defendant I would ask you to address.

10:01:35 5 So let's start with Jose Trevino-Morales' objection.

10:01:40 6 One which is the base offense level and money amounts. And does

10:01:44 7 your testimony with regard to this also address Francisco Antonio

10:01:50 8 Colorado-Cessa objection one and objection two, to some extent?

10:01:53 9 A. Yes.

10:01:53 10 Q. Okay. So, Mr. Trevino-Morales' first objection is lodged on

10:01:59 11 the base offense level that he's held accountable to in

10:02:03 12 paragraphs 71 and 90 of the presentence report. That amount that

10:02:08 13 the probation officer came up with was \$25,069,275.30.

10:02:16 14 Mr. Pennington, I'd like to break that down into two

10:02:19 15 aspects and talk about, first, the purchases of the horses and

10:02:22 16 then, the expenses paid for the horses. So let's talk about the

10:02:25 17 purchases.

10:02:26 18 What records did you rely upon to document the

10:02:29 19 purchases of race horses in this conspiracy?

10:02:34 20 A. We obtained records from Schvaneveldt Horse Sales in

10:02:38 21 California.

10:02:38 22 Q. Let me interrupt you there. That was Government's Exhibit

10:02:41 23 227 at trial?

10:02:42 24 A. Yes.

10:02:42 25 Q. Schvaneveldt. Next?

10:02:44 1 A. Los Alamitos at Pacific Coast, which was basically run by
10:02:48 2 the same organization.
10:02:49 3 Q. Government's Exhibit 229?
10:02:51 4 A. Yes.
10:02:51 5 Q. Next?
10:02:52 6 A. Heritage Place Auction House in Oklahoma City.
10:02:55 7 Q. Government's Exhibit 230?
10:02:56 8 A. Correct.
10:02:57 9 Q. Next.
10:02:58 10 A. Ruidoso Downs Sales Company in Ruidoso, New Mexico.
10:03:02 11 Q. Government's Exhibit 231?
10:03:03 12 A. Correct.
10:03:04 13 Q. Next?
10:03:05 14 A. Eclipse Horse Sales in Grand Prairie, Texas.
10:03:09 15 Q. Government's Exhibit 237?
10:03:10 16 A. Yes.
10:03:11 17 Q. Next?
10:03:11 18 A. And then, we had several private sales and they were William
10:03:19 19 Morschauser and Bill Price and Lucky Seven Ranch.
10:03:22 20 Q. The evidence on Mr. Morschauser was 322?
10:03:26 21 A. Yes.
10:03:26 22 Q. The evidence on Lucky Seven was 241?
10:03:29 23 A. Correct.
10:03:29 24 Q. And that was also the testimony Mr. Russell Stooks, correct?
10:03:32 25 A. Yes.

10:03:33 1 Q. Okay. And then, Mr. Bill Price also testified and his
10:03:37 2 records were Government's Exhibit 367?

10:03:39 3 A. Correct.

10:03:40 4 Q. So when you look at these records, what do they consist of?

10:03:47 5 A. You had -- in the beginning, you had certain people that
10:03:50 6 were used to bid and/or in charge of the purchase of the horses
10:03:55 7 like, for example, first, it was Ramiro Villarreal, and then,
10:03:59 8 later on, Carlos Nayen became involved and kind of took that
10:04:03 9 position where he was directing various purchases of the horses.
10:04:08 10 And then, also, the method of payment that was used to purchase
10:04:12 11 the horses.

10:04:14 12 Q. If you will, could you just refresh the Court's memory on
10:04:17 13 what methods of payment that you looked at, based on these
10:04:21 14 records, to track the sales of these horses?

10:04:24 15 A. Yes. For example, in the early timeframe, we know that
10:04:29 16 Ramiro Villarreal was using Basic Enterprise Company in Mexico to
10:04:34 17 send money to the various auction houses.

10:04:37 18 Q. And we'd ask the Court about the testimony of Mr. Hernando
10:04:40 19 Guerra?

10:04:40 20 A. And also by Mauricio Paez. Hernando Guerra was used by
10:04:46 21 Ramiro Villarreal to send money to purchase horses for the
10:04:49 22 organization. And then, you had Carlos Nayen became involved,
10:04:57 23 and companies that were used when he became involved was ADT,
10:05:01 24 Petro Servicios, Mr. Francisco Colorado-Cessa, a Grupo Aduanero,
10:05:09 25 PIIG. And then, they had currency was used to -- as part of the

10:05:22 1 purchase. And then, they had structured deposits into the
10:05:29 2 various different Heritage Place bank accounts.

10:05:34 3 Q. Did that also include Mr. Del Rayo's payment for the sale of
10:05:40 4 Blues Ferrari?

10:05:41 5 A. That's another one. Mr. Del Rayo provided \$310,000.

10:05:47 6 Q. And when you add up the amounts of purchases from the
10:05:50 7 various records, as we've just described, both public sales and
10:05:54 8 private sales, as well as the entities that you identified,
10:05:59 9 making those purchases through those records, what is the total
10:06:01 10 amount you come up with for the purchases of horses?

10:06:04 11 A. \$16,275,011.16.

10:06:12 12 Q. Now, you, meaning law enforcement, subpoenaed the account of
10:06:17 13 the American Quarter Horse Association; is that correct?

10:06:20 14 A. Yes.

10:06:21 15 Q. And I believe that was Government's Exhibit 226, but I may
10:06:23 16 be mistaken on that. And there was a spreadsheet in which both
10:06:27 17 you and Detective Schutt testified to as tracking 500 or so
10:06:33 18 horses associated with this organization.

10:06:35 19 A. Correct.

10:06:36 20 Q. From that 500 horses the amount that you just stated, the
10:06:40 21 sale prices, the amount that you just stated?

10:06:43 22 A. Yes. From that spreadsheet is where these figures come
10:06:47 23 from.

10:06:48 24 Q. Did you have other horses that you did not include in that
10:06:51 25 amount and that was not provided to the probation officer as a

10:06:56 1 conservative estimate of the amount of horses going through this
10:06:59 2 organization?

10:07:00 3 A. Correct. And also just for clarification, this \$16 million
10:07:04 4 is not the total that was expended on the horses just on the
10:07:09 5 spreadsheet. There were several payments of I wouldn't say
10:07:17 6 unknown, but maybe we didn't have the receipt that was attached
10:07:20 7 to it to finally balance it out to zero; therefore, I did not use
10:07:24 8 that in the computation of the \$16 million, so that would be
10:07:27 9 additional funds.

10:07:28 10 Q. Now, let's talk about horses that you felt were tied to the
10:07:32 11 organization some way but did not provide to the probation office
10:07:36 12 to calculate the relevant conduct.

10:07:38 13 How many other horses did you associate through the
10:07:43 14 AQHA records through this organization?

10:07:44 15 A. When we issued subpoenas to the auction houses, we issued
10:07:47 16 subpoenas to AQHA. We got records based -- and we sent names of
10:07:53 17 members that we believe associated with this organization and
10:07:57 18 assisted them. They provided us a lot of records, a lot of
10:08:01 19 horses. I'm going to say probably excess of 700, maybe excess of
10:08:05 20 750 horses.

10:08:07 21 Q. So of that 750, you were able to confirm 500?

10:08:12 22 A. Yes. We culled down some of them for various reasons.

10:08:17 23 Q. And so, on the other 200, 250, why did you not include those
10:08:20 24 in your calculation?

10:08:22 25 A. Various reasons. It may be that the payment didn't come

10:08:28 1 from a certain group of people that we wanted to concentrate on.
10:08:36 2 Maybe the whereabouts of the horse, you know, was unknown. It's
10:08:39 3 just different reasons why they were excluded.

10:08:41 4 Q. But that horse or those horses at least had some ties to the
10:08:46 5 organization?

10:08:47 6 A. We believe they did and so did the auction houses because we
10:08:50 7 received the records.

10:08:52 8 Q. So can you give me, example, let's say you look at an AQHA
10:08:59 9 form that had Carlos Nayan's name on it. Why would you not use
10:09:04 10 something like that in the calculation of a horse?

10:09:05 11 A. If we couldn't determine exactly how it was purchased, we
10:09:08 12 couldn't determine the funds used to purchase it, the whereabouts
10:09:14 13 of it, it really had no other documentation as to that horse, we
10:09:17 14 may have excluded that horse.

10:09:19 15 Q. Were you able to make a determination on those 250 horses as
10:09:24 16 to the average price of those horses?

10:09:27 17 A. Yes. Look at the records as Mr. Schutt was going through
10:09:31 18 it, I think the prices ranged from anywhere from 3,000 to 20,000.

10:09:35 19 Q. So taking an average of, say, \$5,000 out of 250 horses, how
10:09:41 20 much money is that?

10:09:42 21 A. \$1.25 million.

10:09:44 22 Q. So that \$1.25 million is not part of the calculus of the
10:09:50 23 \$16,275,000 some-odd dollars?

10:09:52 24 A. No. It is not.

10:09:55 25 Q. So with respect to the value of the purchases of the horses,

10:10:00 1 are you competent that 16 million-plus is a very conservative
10:10:03 2 figure?

10:10:03 3 A. Yes.

10:10:07 4 Q. Is it your opinion that the actual value of the purchases of
10:10:09 5 the horses by this organization is in excess of that amount?

10:10:13 6 A. Yes.

10:10:13 7 Q. Now, let's talk about the expenses. Probation office
10:10:18 8 calculated expenses to the tune of \$8,794,264.21. To come to
10:10:28 9 that figure, Special Agent, what did you consider in terms of
10:10:31 10 records to arrive at that figure?

10:10:33 11 A. We used records from basically 12 sources. We kind of
10:10:44 12 limited based on the records that we had, which included the
10:10:49 13 breeding fees to Corona Cartel and Mr. Jess Perry, which came
10:10:57 14 from records of Celina Molina.

10:11:00 15 Q. That's Government's Exhibit 302?

10:11:02 16 A. Correct.

10:11:08 17 Q. Okay.

10:11:12 18 A. Records of the Lazy E.

10:11:13 19 Q. Government's Exhibit 239?

10:11:15 20 A. Yes.

10:11:15 21 Q. Okay.

10:11:16 22 A. Records from Vessels.

10:11:18 23 Q. Government's Exhibit 243?

10:11:19 24 A. Yes. Records in the Southwest Stallion Station.

10:11:23 25 Q. Government's Exhibit 233 and 266?

10:11:26 1 A. Correct. Records obtained from Paul Jones Racing.

10:11:31 2 Q. Government's Exhibit 242 and 259?

10:11:33 3 A. Those are going to be the bank records that we subpoenaed in

10:11:35 4 conjunction with Paul Jones Racing. JGA Racing.

10:11:44 5 Q. Government's Exhibit 313?

10:11:45 6 A. Yes. The expenses to and through Francisco Colorado as

10:11:51 7 Special Agent Michael Fernald analyzed those accounts.

10:11:55 8 Q. Government's Exhibit 252.

10:11:58 9 A. Expenses to and through Huitron Homes.

10:12:01 10 Q. That's the Wells Fargo accounts, correct?

10:12:03 11 A. Correct.

10:12:03 12 Q. Government's Exhibit 256?

10:12:05 13 A. Yes. Expenses to and through Adan Farias.

10:12:09 14 Q. That's Government's Exhibit 274?

10:12:11 15 A. And then, we had Currency Transaction Reports reflecting

10:12:18 16 payments that I think it was Victor Lopez made to Equine Sports

10:12:23 17 Medicine and Surgery, embryo transfer services. And then, we had

10:12:30 18 expenses to and through Jose Trevino that, again, was conducted

10:12:34 19 by the financial analysis that Special Agent Michael Fernald

10:12:37 20 conducted.

10:12:38 21 Q. And so, is that how you get to the amounts we previously

10:12:43 22 stated, the eight-plus million?

10:12:44 23 A. As a matter of fact, Michael Fernald actually called to my

10:12:48 24 attention approximately 200-and-some-odd thousands that I had

10:12:53 25 left off, which should bring the total to \$9,061,364.21.

10:12:59 1 Q. And where did that extra --

10:13:01 2 A. That was part of the analysis that Special Agent Fernald did
10:13:05 3 on Francisco Colorado.

10:13:07 4 Q. Did you also consider that a conservative figure with
10:13:11 5 respect to expenses?

10:13:12 6 A. Yes.

10:13:12 7 Q. Okay. And what expenses did you identify but not consider
10:13:19 8 or use in your calculus to get to the \$9 million?

10:13:22 9 A. We know that there was a number of vet expenses out there
10:13:26 10 that we did not use. We did not go and subpoena every vet. For
10:13:30 11 example, Elgin Vet, we did not use their records. There was
10:13:33 12 other additional vets that we did not use. We know --

10:13:36 13 Q. Let me stop you there. For example, Elgin Vet, was there
10:13:40 14 documents recovered from the Huitron search warrants that
10:13:42 15 indicated they were using the Elgin Vet for horse expenses?

10:13:45 16 A. Yes.

10:13:46 17 Q. All right. And the other vets included Equine Sports
10:13:48 18 Medicine and New Mexico and Los Alamitos?

10:13:53 19 A. Correct. They had vets in New Mexico. They had vets in
10:13:57 20 California that were being used. We did not -- I don't believe
10:14:00 21 we subpoenaed -- we did not use those records. We know that they
10:14:05 22 were training horses in Ruidoso, New Mexico at the facility at
10:14:09 23 Ruidoso Downs. I do not believe that we got those records nor
10:14:13 24 did we count those expenses into the computation. Same thing
10:14:19 25 with Los Alamitos, except for the ones that I mentioned.

10:14:24 1 Q. Did you count the transportation expenses for horses within
10:14:28 2 the United States?

10:14:28 3 A. No. I did not.

10:14:29 4 Q. Did you find records and receipts in both the e-mails, the
10:14:33 5 computers, and the search warrants indicating they were paying
10:14:37 6 transporters to move horses within the United States?

10:14:39 7 A. Yes. There was records.

10:14:46 8 Q. Did you include ferry fees?

10:14:49 9 A. No, sir.

10:14:49 10 Q. A number of horses were transported across the border to
10:14:53 11 Mexico. Did you discover fees associated with the inspection and
10:14:58 12 veterinary certification for those transportation of horses?

10:15:01 13 A. Yes.

10:15:02 14 Q. Did you include those fees?

10:15:03 15 A. No.

10:15:05 16 Q. Now, there was some evidence with respect to various
10:15:08 17 horsemen's accounts. Those are accounts at racetracks for owners
10:15:11 18 and trainers. Did you include those expenses and fees?

10:15:15 19 A. Only, for example, the money that went into Huitron Homes
10:15:18 20 and then, into the horsemen's account, those funds were, in fact,
10:15:23 21 counted. Other funds that went into the horsemen's account used
10:15:27 22 to pay various different things were not accounted.

10:15:30 23 Q. There was some testimony, introduction of records as it
10:15:35 24 related to Yearsley Bloodstock Insurance. To what extent did you
10:15:39 25 not count some of those expenses?

10:15:42 1 A. If it was included in the analysis done by Special Agent
10:15:47 2 Michael Fernald with -- as it relates to Jose Trevino where he
10:15:52 3 wrote checks and paid Nancy Yearsley, it was included. When you
10:15:56 4 had payments that went through Fernando Garcia, Garcia Bloodstock
10:16:01 5 by Hernando Guerra, other things, those funds were not included.

10:16:08 6 Q. Did you include expenses as related to the accounts for, you
10:16:14 7 mentioned, Garcia Bloodstock, but how about Poker Ranch, LLC?

10:16:20 8 A. No. I don't believe we did.

10:16:22 9 Q. Okay. Legacy Ranch?

10:16:23 10 A. No.

10:16:24 11 Q. Okay. So taking those that you did not consider, can you
10:16:27 12 now give the Court a estimate of the value -- of total value of
10:16:32 13 those funds that you did not consider and provide to the
10:16:35 14 probation officer for the calculation of the total expenses?

10:16:49 15 A. It would be approximately somewhere between 900 to a million
10:16:53 16 or over a million dollars that we did not.

10:16:58 17 Q. So would you classify the amount that you came up with the
10:17:01 18 expenses as a conservative amount?

10:17:04 19 A. Yes, I would.

10:17:04 20 Q. I want to turn your attention, specifically, Mr.
10:17:11 21 Colorado-Cessa's objections one and two, and we'll get to three
10:17:15 22 in a second. The probation office held him accountable only for
10:17:19 23 \$10,134,082.73.

10:17:23 24 Where did you get that figure from with respect to,
10:17:28 25 again, purchases, first?

10:17:33 1 A. From the money from Colorado-Cessa through personal checks,
10:17:37 2 through ADT wire transfers, through other funds, through the
10:17:48 3 Arian Jaff Quick Loans funds, the one he associated with -- from
10:17:52 4 sales, excluding PIIG, was \$8,616,069. Through PIIG was
10:18:08 5 \$802,135. And then, the expenses which, again, come from the
10:18:12 6 analysis of Michael Fernald was \$715,878.50, which gets us to the
10:18:19 7 \$10,134,082.73.

10:18:24 8 Q. And I believe you testified at trial, we had a slide, a
10:18:27 9 demonstrative exhibit that showed Mr. Cessa was responsible for
10:18:32 10 purchasing 121 horses. Do you recall that?

10:18:34 11 A. Yes.

10:18:34 12 Q. Now, when you count up the purchase price and the expenses
10:18:40 13 that you just testified to, would you classify that as a
10:18:43 14 conservative amount of the money he's directly accountable for or
10:18:48 15 a liberal amount?

10:18:49 16 A. Conservative.

10:18:50 17 Q. Okay. And what expenses did you not include and report to
10:18:53 18 the probation office that you believe should be held accountable
10:18:56 19 for Mr. Colorado-Cessa?

10:18:57 20 A. Of the 121 horses that were purchased at various auctions,
10:19:02 21 we know that a number of those horses were placed at various
10:19:05 22 different trainers in Ruidoso, New Mexico, at Los Alamitos,
10:19:10 23 California, other places in California, at the Southwest Stallion
10:19:15 24 Station ranch in Elgin, Texas. With other horses purchased
10:19:20 25 through -- with funds through, like, Basic Enterprises or Grupo

10:19:24 1 Aduanero, those horses were all housed or boarded under the
10:19:29 2 control of Carlos Nayan, and he directed the payments for the
10:19:32 3 boarding, care, training of those type horses, and those expenses
10:19:37 4 are not included in this \$10 million figure you just mentioned.

10:19:41 5 Q. So as a horse purchaser, would you find it reasonable to
10:19:47 6 assume since you purchased a horse, you're going to have to take
10:19:49 7 care of it, train it, and race it?

10:19:51 8 A. Correct.

10:19:52 9 Q. And so, did you locate any expenses with respect -- or hold
10:19:56 10 Mr. Cessa accountable for any of those expenses in your report to
10:20:00 11 the probation office?

10:20:01 12 A. He got held accountable just for the wire transfers and the
10:20:04 13 moneys that Mr. Fernald traced directly from ADT to various
10:20:08 14 different locations. It does not include the other horses being
10:20:13 15 housed with the other organization horses, and then, all those
10:20:19 16 expenses were actually grouped together in their type of payment.

10:20:24 17 For example, the horses that were purchased and sent to
10:20:28 18 Southwest Stallion Station under the control of Carlos Nayan, on
10:20:33 19 occasion, were paid for with some of the funds from Alfonso Del
10:20:37 20 Rayo-Mora, and they were applied to all the different accounts at
10:20:40 21 the direction of Carlos Nayan.

10:20:43 22 Q. And so, when you factor in that -- those expenses for those
10:20:50 23 121 horses, what amount could Mr. Francisco Colorado-Cessa be
10:20:57 24 held accountable for the expenses of the horses, in addition to
10:20:59 25 what you calculate for the purchases in the previous 715,000

10:21:04 1 expenses?

10:21:05 2 A. Including the analysis of the expenses for the ranch in
10:21:10 3 Oklahoma, there would be an additional \$8,300,000, approximately.

10:21:21 4 Q. And, again, that amount was not held accountable to Mr.
10:21:25 5 Colorado-Cessa, correct?

10:21:25 6 A. Correct.

10:21:26 7 Q. Now, with respect to the 121 horses purchased by Mr.
10:21:30 8 Colorado-Cessa, how many of those did you locate under his sole
10:21:35 9 care and custody, control in the United States upon arrest and
10:21:40 10 search warrants?

10:21:41 11 A. Of the 121, I think he only had maybe three or four at
10:21:57 12 Southwest Stallion.

10:22:02 13 Q. And who was arranging for the payment for those expenses?

10:22:06 14 A. Early on, it was Carlos Nayan, and then, I think at the end,
10:22:10 15 I think that bill continued to grow. I don't think it was paid
10:22:14 16 towards the end.

10:22:15 17 Q. Now, Special Agent Pennington, I want to turn your attention
10:22:18 18 to Mr. Colorado-Cessa's objection sort of contained within one
10:22:25 19 and two about his knowledge of the SUA proceeds. And you were
10:22:29 20 present during both the testimony and, also, the interview of Mr.
10:22:34 21 Juan Carlos Hinojosa, correct?

10:22:35 22 A. Yes.

10:22:36 23 Q. If you will, Ms. Fernald talked about it briefly when she
10:22:40 24 was talking to Mr. Segura. Could you briefly talk about the \$6
10:22:45 25 million that Mr. Hinojosa talked about with respect to the Zeta

10:22:49 1 payment to capitalize ADT?

10:22:51 2 A. Yes.

10:22:52 3 Q. And just in general, talk about what Mr. Hinojosa told the
10:22:58 4 jury, as well as you in the interviews, regarding all the
10:23:01 5 payments that were made to Francisco Colorado.

10:23:05 6 A. After meeting Francisco Colorado and Efrain Torres, "Zeta
10:23:12 7 14," there was discussion in which Mr. Colorado wanted funds to
10:23:17 8 put into his business -- businesses and Mr. Hinojosa, during our
10:23:24 9 initial interview, was actually able to identify ADT Petro
10:23:27 10 Servicios as one of the businesses.

10:23:29 11 MR. SANCHEZ: Your Honor, sorry to cut him off, but I'm
10:23:31 12 going to object at this point. Mr. Hinojosa testified at trial.
10:23:36 13 The actual source of the information came in that was subject to
10:23:39 14 cross-examination. I think we should be looking to that record
10:23:45 15 of what he actually said at trial both on direct and through
10:23:49 16 cross, instead of just getting a summary of information that came
10:23:53 17 at trial and through who knows how many different interviews that
10:23:57 18 this man had with Mr. Hinojosa. For that reason, I'm objecting.

10:24:02 19 THE COURT: You're not withdrawing your objection, are
10:24:04 20 you?

10:24:04 21 MR. SANCHEZ: Pardon?

10:24:05 22 THE COURT: You're not withdrawing your objection, are
10:24:08 23 you?

10:24:08 24 MR. SANCHEZ: No.

10:24:09 25 THE COURT: Then the objection -- your objection is

10:24:11 1 overruled. He has the right to put what he wants in the record
10:24:14 2 in light of your objection, sir. You may proceed.

10:24:20 3 Q. (BY MR. GARDNER) So you talked about 6 million. Could you
10:24:22 4 talk about the 12 million?

10:24:23 5 A. Yes. Twelve million was funneled through -- from, again,
10:24:27 6 Efrain Torres through Francisco Colorado to be used for the
10:24:32 7 campaign of the governor-elect Herrera during that timeframe.

10:24:38 8 Q. And so, what was the total amount that Mr. Hinojosa
10:24:43 9 testified to and/or your interview that he provided to Mr.
10:24:47 10 Colorado-Cessa from Zeta money?

10:24:49 11 A. It would be \$18 million plus a suitcase of cash.

10:24:54 12 Q. So, again, to be conservative, 18 million from Mr. Hinojosa?

10:24:58 13 A. Correct.

10:24:58 14 Q. And what evidence or information did you get from Hinojosa
10:25:03 15 regarding Mr. Colorado-Cessa's use of his aircraft in conjunction
10:25:07 16 with the illegal activities of the Zetas?

10:25:09 17 A. That's another thing he had mentioned is that part of this 6
10:25:12 18 million was used to purchase a King Air aircraft. And then, as
10:25:22 19 things progressed and Mr. Torres and Mr. Colorado became close
10:25:27 20 associates and friends, they then also used the aircraft to
10:25:31 21 transport cocaine.

10:25:36 22 Q. And is that transportation from Mexico into the United
10:25:40 23 States or?

10:25:41 24 A. No. I believe it's just in Mexico.

10:25:43 25 Q. And, again, who did this cocaine belong to?

10:25:46 1 A. Zeta cocaine.

10:25:48 2 Q. Now, we heard or had some testimony early on, outside the
10:25:53 3 presence of the jury, and from other witnesses about Mr. Cessa's
10:25:56 4 ranch called Flor de Maria. What did Mr. Hinojosa provide you as
10:26:01 5 to who was the owner of that ranch?

10:26:04 6 A. The ranch basically -- I think the conversation was that
10:26:13 7 could belong to Efrain Torres if proper payments were not made to
10:26:19 8 Efrain Torres.

10:26:22 9 Q. And do you believe he was referring back to the earlier
10:26:25 10 payments of the \$18 million?

10:26:27 11 A. Yes.

10:26:29 12 Q. So the next -- in extent, was the ranch put up as
10:26:35 13 collateral?

10:26:35 14 A. That's my understanding.

10:26:37 15 Q. One more question with respect to the base offense level,
10:26:51 16 the knowledge of SUA proceeds.

10:26:55 17 There was a slide, I believe, that was in my closing
10:26:58 18 argument that we talked about the last two horse sales at
10:27:01 19 Heritage Place. How many -- or what was the amount, the total
10:27:06 20 amount of money spent on the purchases of the horse at those last
10:27:09 21 two sales?

10:27:23 22 THE COURT: The sales were where?

10:27:26 23 MR. GARDNER: Heritage Place, your Honor, Oklahoma.

10:27:30 24 A. It was over like \$1.2 million, I believe. It was the
10:27:35 25 November sale in 2011 where the funds were sent to Heritage Place

10:27:41 1 by Arian Jaff and his company called Quick Loans in the amount of
10:27:46 2 \$733,000, and then, at the Heritage Place January 2012, where
10:27:53 3 they had seven horses purchased -- or, actually, it's five horses
10:27:56 4 and two foals in utero for a total of approximately \$280,000. So
10:28:05 5 those two combined, over a million dollars.

10:28:09 6 Q. (BY MR. GARDNER) And of those horses at those two sales, how
10:28:11 7 many remained in Mr. Colorado's name and what was the amounts of
10:28:14 8 those two?

10:28:15 9 A. I believe, actually, only two of those horses. As the ones
10:28:19 10 in November, I believe, were placed into the name of Luis Aguirre
10:28:24 11 and then, transferred to Jose Trevino in January of 2012. And
10:28:30 12 then, the ones in the January 2012, only two of the horses, one
10:28:39 13 costing \$8,200 and one costing \$11,500, were placed in the name
10:28:44 14 of Francisco Colorado. The other horses, I believe, were
10:28:47 15 transferred and taken to Jose Trevino's ranch in Lexington,
10:28:51 16 Oklahoma.

10:28:52 17 Q. I'd like to turn your attention to Mr. Colorado-Cessa's
10:28:55 18 objection number three in which he claims he should be a minor
10:28:58 19 participant.

10:29:00 20 What evidence did you rely on to show that if she's not
10:29:05 21 a leader, organizer or manager, at the least, he is an average
10:29:09 22 participant?

10:29:10 23 A. Number one, he provided -- of the 16 million he provided to
10:29:16 24 use to purchase the horses, the funds through Colorado-Cessa
10:29:20 25 exceeded over half of that in excess of 9 million. There was

10:29:25 1 multiple purchases. You had wire transfers. You had personal
10:29:30 2 checks. You had the ADT wires. You had him going through Arian
10:29:35 3 Jaff at a very high interest rate.

10:29:40 4 Q. And, again --

10:29:41 5 A. You also had him going -- I'm sorry.

10:29:43 6 Q. Sorry. With respect to the moneys obtained from Mr. Jaff,
10:29:46 7 Mr. Colorado-Cessa sends that to Heritage Place under his own
10:29:49 8 name?

10:29:49 9 A. No.

10:29:50 10 Q. And whose name was it under?

10:29:51 11 A. It was under Arian Jaff, part of it. The other part was
10:29:55 12 under Quick Loans.

10:29:55 13 Q. And with respect to the 121 horses, what percentage of the
10:30:01 14 entire organization's horses that you've identified does that
10:30:05 15 represent?

10:30:12 16 A. Probably at least a fifth.

10:30:15 17 Q. And could you characterize the value of these horses with
10:30:22 18 respect to or as it relates to the value of all of the
10:30:27 19 organization's horses?

10:30:29 20 A. The higher-valued horses were actually purchased with funds
10:30:33 21 through Mr. Colorado-Cessa.

10:30:36 22 Q. And what was the length of time that you observed Mr.
10:30:39 23 Colorado-Cessa's involvement with the Zeta organization, total
10:30:45 24 time period?

10:30:45 25 A. 2004, 2005 to the time of his arrest.

10:30:50 1 Q. Okay. And what about with respect to the verifiable
10:30:53 2 purchases of horses here in the United States?

10:30:55 3 A. They started in 2008.

10:30:56 4 Q. Till the time he was arrested in 2012?

10:30:59 5 A. Yes.

10:30:59 6 Q. And we have a number of purchases. Approximately how many
10:31:04 7 purchases or auctions did Mr. Colorado-Cessa participate in in
10:31:08 8 terms of auction?

10:31:10 9 A. I don't believe any. I don't know that he actually showed
10:31:13 10 up and bid on any horse.

10:31:14 11 Q. I'm sorry. That was an in-artful question.

10:31:16 12 A. Okay.

10:31:16 13 Q. How many auctions were funds from either ADT or
10:31:22 14 Colorado-Cessa provided for the sale of horses or purchase of
10:31:25 15 horses?

10:31:38 16 A. I want to say at least eight.

10:31:45 17 Q. Now, who is Francisco Silva-Ramos?

10:31:49 18 A. He was a business associate of Francisco Colorado, and he
10:31:54 19 was the man that was placed in front of Bonanza Racing.

10:32:00 20 Q. And recall your attention to Government's Exhibit 380 was a
10:32:03 21 map. Where did it indicate that Mr. Francisco Silva-Ramos
10:32:07 22 resided in relation to Mr. Colorado-Cessa?

10:32:09 23 A. Just around the corner, like two houses away.

10:32:22 24 Q. Special Agent, I'd now like to turn your attention to the
10:32:25 25 objection lodged by Mr. Eusevio Huitron.

10:32:28 1 THE COURT: We're going to give the court reporter a
10:32:30 2 break.

10:32:30 3 MR. GARDNER: Thank you, sir.

10:32:32 4 THE COURT: Ten-minute break.

10:44:18 5 (Recess.)

10:44:20 6 THE COURT: You may proceed.

10:44:20 7 Q. (BY MR. GARDNER) Special Agent Pennington, before the break,
10:44:23 8 if you'd turn to the objection lodged for Mr. Eusevio Huitron,
10:44:27 9 objection number one, non-scoring objection. So I'll turn to
10:44:30 10 objection number two regarding laundered funds about the
10:44:34 11 proceeds.

10:44:35 12 If you will, could you recall the testimony of Mr.
10:44:39 13 "Poncho" Cuellar with respect to a courier making a joke?

10:44:44 14 A. Yes.

10:44:44 15 Q. Could you inform the Court, for the record, what that joke
10:44:48 16 was?

10:44:49 17 A. The courier went to visit Mr. Huitron, I believe, to drop
10:44:53 18 off some money, made a joke about acquiring some cocaine, and
10:44:59 19 that joke quickly made its way back through "42." "Poncho"
10:45:04 20 Cuellar -- basically admonishing "Poncho" Cuellar and the courier
10:45:09 21 from making a joke.

10:45:10 22 Q. And that testimony, do you recall the Court's attention,
10:45:13 23 came from "Poncho" Cuellar, right?

10:45:15 24 A. I believe it was.

10:45:15 25 Q. Mario Alfonso Cuellar?

10:45:18 1 A. Yes.

10:45:18 2 THE COURT: Save some of the testimony, the Court's
10:45:22 3 reviewed notes that I made during the trial, and, of course, the
10:45:31 4 transcript of trial has been available to everybody.

10:45:35 5 MR. GARDNER: I may save that for argument then, Judge.

10:45:37 6 THE COURT: You may.

10:45:38 7 MR. ESPER: For the record, I would object to that,
10:45:40 8 that that was not Mr. Cuellar that testified to that statement.

10:45:44 9 THE COURT: All right.

10:45:47 10 Q. (BY MR. GARDNER) Now, I want to talk about Government's
10:45:50 11 Exhibit 256, which was the Huitron Homes accounts. Could you --
10:45:56 12 and, again, this sort of goes to objection number two and three,
10:46:00 13 three being the sophisticated laundering.

10:46:06 14 Could you please inform the Court of the method in
10:46:09 15 which the money was deposited into the Huitron Homes account and
10:46:13 16 how it was distributed out of that account?

10:46:14 17 A. Yes. A very large --

10:46:16 18 THE COURT: I'm not interested in any evidence on
10:46:20 19 sophistication. All of those objections are overruled.

10:46:24 20 MR. GARDNER: Yes, your Honor.

10:46:26 21 Q. (BY MR. GARDNER) Let's go to objection number four, then,
10:46:28 22 which would be the minor role. I'm sorry, let's go back.

10:46:32 23 There was a non-testifying individual that the
10:46:36 24 government interviewed in connection with this case. Do you
10:46:40 25 recall that individual?

10:46:40 1 A. Yes, I do.

10:46:41 2 Q. And does that individual wish for his information to be
10:46:44 3 disclosed in open court?

10:46:46 4 A. No. He does -- well, the information, yes. The identity,
10:46:49 5 no.

10:46:50 6 Q. Yes, sir. Why does he or she not wish for that identity to
10:46:54 7 be disclosed?

10:46:54 8 A. Concerned for safety.

10:46:55 9 Q. Could you please explain for the Court the role of that
10:46:58 10 individual within the Zeta organization?

10:47:02 11 A. Yes. The person had personal knowledge of "40," "42," Jose
10:47:10 12 Trevino, Francisco Colorado-Cessa, Fernando Garcia, Eusevio
10:47:17 13 Huitron, and a number of other folks in this organization and
10:47:25 14 conspiracy, and dealt with them on a regular basis.

10:47:29 15 Q. And with respect to Eusevio Huitron, what did this
10:47:35 16 confidential source provide you with information regarding Mr.
10:47:37 17 Huitron's connection to Miguel Angel Trevino-Morales, also known
10:47:43 18 as "40"?

10:47:44 19 A. That they met in Nuevo Laredo, Mexico, I believe in Mexico,
10:47:50 20 and they were discussing the horses of "Mamito."

10:47:53 21 Q. And was this individual present during the meeting between
10:47:57 22 Eusevio Huitron and "40"?

10:47:59 23 A. Yes.

10:47:59 24 Q. And what did this individual explain with respect -- or was
10:48:04 25 this individual asked whether or not all the cooperating -- I'm

10:48:08 1 sorry. All the defendants in this case had knowledge that they
10:48:11 2 were dealing with the Zetas?

10:48:13 3 A. Yes. I believe the statement was everybody knew, and if
10:48:20 4 they didn't, they were told that this was "40's" money, so they
10:48:24 5 knew to be careful.

10:48:25 6 Q. Now, were there -- also with respect to the knowledge, were
10:48:33 7 there a number of computers seized from the Huitron place of
10:48:38 8 business?

10:48:39 9 A. Yes. Exactly where, I don't recall, but yes, there was some
10:48:43 10 seized.

10:48:43 11 Q. That's Government's Exhibit 364 ATXA through RR, correct?

10:48:48 12 A. Yes.

10:48:48 13 Q. And with respect to pictures demonstrating a connection to
10:48:53 14 the Zetas, could you recall that?

10:48:55 15 A. I know there were a lot of pictures on there. There was a
10:48:58 16 picture of the Z. There was pictures of -- yes.

10:49:01 17 Q. Severed heads, bodies?

10:49:03 18 A. Yes.

10:49:03 19 Q. Those pictures weren't introduced at trial, correct?

10:49:06 20 A. They were not.

10:49:06 21 Q. Okay. Now, going to the objection number four, which is the
10:49:10 22 minor role. How many number of transactions can you estimate
10:49:16 23 that Mr. Eusevio Huitron conducted, either through his Huitron
10:49:22 24 Homes accounts or through his horsemen's accounts, as it relates
10:49:27 25 to this organization?

10:49:29 1 MR. ESPER: Your Honor, I'm going to object. I think
10:49:31 2 that testimony regarding that heard by the Court as to those
10:49:33 3 deposits, and I don't think Mr. Huitron -- this particular Mr.
10:49:36 4 Huitron made any.

10:49:39 5 THE COURT: Well, if you'll limit your questions to the
10:49:44 6 activities of Mr. Eusevio Huitron, I will permit the question and
10:49:54 7 answer.

10:49:56 8 Q. (BY MR. GARDNER) What is the number of horses that you
10:49:58 9 estimated that Eusevio Huitron trained on behalf of this
10:50:01 10 organization?

10:50:04 11 A. I want to say in excess of 40 during the timeframe.

10:50:08 12 Q. And when you say timeframe, could you list for the Court the
10:50:13 13 information you have regarding the timeframe in which Mr. Eusevio
10:50:18 14 Huitron was involved in this organization?

10:50:20 15 A. Right. He was one of the trainers, I believe, of Tempting
10:50:25 16 Dash in 2008 timeframe, 2009 timeframe. And then, in July of
10:50:32 17 2010, June 2010, a number of the horses were taken to his ranch
10:50:37 18 to be trained. Prior to that, he was training horses for
10:50:40 19 "Mamito." And then, he also, I believe, continued training
10:50:47 20 horses through the spring of 2012.

10:50:53 21 Q. And was that training horses under Mr. Fernando Garcia in
10:50:57 22 New Mexico?

10:50:58 23 A. Yes.

10:50:58 24 Q. Okay. Is that where he broke his leg?

10:51:01 25 A. Yes.

10:51:02 1 Q. Now, also, turning your -- or recalling your attention to
10:51:07 2 Government's Exhibit 65A, it's a detailed folder of the
10:51:11 3 distribution of funds and horses per nominees.

10:51:15 4 Could you reintroduce or talk about all those documents
10:51:19 5 in that folder? Could you recall the documents in that folder,
10:51:24 6 how it relates to Mr. Eusevio Huitron taking care of various
10:51:28 7 horses for various nominees?

10:51:29 8 A. Without re-seeing the exhibit.

10:51:30 9 MR. ESPER: Excuse me, your Honor, I'm going to object.
10:51:33 10 There was no evidence that that was Mr. Eusevio Huitron's writing
10:51:36 11 or that the folder was attributable to him. It was found in a
10:51:40 12 search of offices of Huitron Homes. Not attributable to Eusevio
10:51:46 13 Huitron.

10:51:50 14 MR. GARDNER: Your Honor, the majority of that folder
10:51:52 15 pertained to the training of horses in which other evidence
10:51:55 16 indicated Mr. Huitron did.

10:51:59 17 THE COURT: The Court's primarily concerned with the
10:52:02 18 number of horses and the money. So if you'll go off to those
10:52:07 19 two, we might could shorten the hearing.

10:52:10 20 MR. GARDNER: Yes, sir.

10:52:11 21 THE COURT: It's the money that went through Mr.
10:52:14 22 Huitron to train the more than 40 horses.

10:52:17 23 MR. GARDNER: Yes, sir, your Honor.

10:52:19 24 Q. (BY MR. GARDNER) Special Agent Pennington, I'd like to turn
10:52:21 25 your attention now as well as to testimony with respect to the

10:52:24 1 asset forfeiture proceeding here, as well.

10:52:28 2 Now, you have a copy of the superseding indictment in
10:52:30 3 front of you?

10:52:31 4 A. Yes, I do.

10:52:31 5 Q. I'd like you to look at page 21 of the superseding
10:52:34 6 indictment. Lists a number of financial accounts. Paragraphs 2
10:52:41 7 through 7?

10:52:42 8 A. Yes.

10:52:43 9 Q. Okay. Were those financial accounts analyzed during the
10:52:47 10 money-laundering investigation?

10:52:47 11 A. Yes, they were.

10:52:48 12 Q. Can you generally describe these accounts?

10:52:50 13 A. Number two is going to be the Huitron Homes bank account,
10:52:55 14 Wells Fargo. Then you had Garcia Bloodstock Racing at Wells
10:53:00 15 Fargo. Carlos Nayan, Carmina, LLC at Wells Fargo, Poker Ranch at
10:53:06 16 Wells Fargo, another Poker Ranch at Wells Fargo, and Bank of
10:53:10 17 America, LA Horses account.

10:53:12 18 Q. Were these bank accounts controlled by various nominees or
10:53:14 19 entities associated with the organization?

10:53:16 20 A. Yes.

10:53:16 21 Q. And what were your findings based on the analysis of these
10:53:21 22 accounts?

10:53:21 23 A. These accounts were used by members of the organization to
10:53:25 24 funnel funds and to help the conspiracy.

10:53:29 25 Q. Okay. Were they used to facilitate and further the

10:53:33 1 money-laundering conspiracy?

10:53:33 2 A. Yes.

10:53:34 3 Q. I'd like you to look at page 22 of the superseding
10:53:37 4 indictment. And were the accounts listed in paragraphs 13
10:53:41 5 through 19 analyzed as part of the same investigation?

10:53:46 6 A. Yes, they were.

10:53:47 7 Q. Okay. And, again, without listing each account there, are
10:53:50 8 they generally accounts that Ruidoso Downs and Los Alamitos,
10:53:54 9 controlled by nominees or persons or entities associated with the
10:53:58 10 money-laundering conspiracy?

10:53:59 11 A. Yes. These were the, for lack of a better word, horsemen's
10:54:03 12 accounts at the various different racing entities.

10:54:05 13 Q. Okay. What were the findings based on the analysis of these
10:54:07 14 accounts?

10:54:08 15 A. Each person associated with the racing of these horses
10:54:12 16 controlled by the organization had to establish the horsemen's
10:54:15 17 account in order to funnel funds through for entry fees,
10:54:18 18 training, winnings, that type stuff. So each of the --

10:54:20 19 THE COURT: Slow down a little.

10:54:22 20 A. Oh, I'm sorry. Each of these were used to, again, funnel
10:54:27 21 money into for race winnings, payments of expenses, race entries,
10:54:33 22 payment of jockeys, that type of stuff.

10:54:35 23 Q. (BY MR. GARDNER) And turning your attention now to the
10:54:38 24 horses contained on pages 24 through 44, were they used or
10:54:44 25 involved -- were they used to facilitate or involved in the

10:54:47 1 money-laundering conspiracy based on your analysis?

10:54:48 2 A. Yes.

10:54:50 3 Q. And how so?

10:54:52 4 A. A number of these horses were purchased through the various
10:54:55 5 auctions we've talked about. We also had a number of horses that
10:54:59 6 were bred into the organization in which horses that were already
10:55:05 7 purchased through the different auctions were bred to a number of
10:55:09 8 high-dollar stud horses, like First Down Dash, Corona Cartel, Mr.
10:55:14 9 Jess Perry, just to name a few. And then, the -- as the babies
10:55:20 10 were born, a number of these were seized from the ranch in
10:55:24 11 Lexington, Oklahoma.

10:55:26 12 Q. Approximately how many horses total were seized?

10:55:28 13 A. Approximately 489, I believe, were seized.

10:55:33 14 Q. And of those horses, were they in the course of your
10:55:37 15 investigation controlled or directed by "40," "42," and members
10:55:41 16 of the Zeta organization?

10:55:42 17 A. Yes.

10:55:43 18 Q. Where were these horses found?

10:55:45 19 A. They were found in Lexington, Oklahoma, Elgin, Texas,
10:55:50 20 Ruidoso, New Mexico, and California.

10:55:54 21 Q. Were they located at private ranches or various locations?

10:55:58 22 A. Various locations, including private ranches.

10:56:00 23 Q. Now, the 490 horses listed in the superseding indictment,
10:56:04 24 how many have been sold by the government at auction or private
10:56:08 25 sale, according to the Court's interlocutory sale orders?

10:56:11 1 A. I believe around 480-some have been sold. I know that we're
10:56:17 2 still in possession of five horses. Now, I believe four embryos,
10:56:26 3 all the other horses have been sold with exception of a couple --
10:56:29 4 I think they were -- one returned to a rightful owner. Something
10:56:34 5 else had to -- the other two, I believe, given to a family member
10:56:37 6 of the Trevinos.

10:56:38 7 Q. So if I were to tell you 484, you would not dispute that as
10:56:42 8 number of horses already sold?

10:56:44 9 A. No. That's real close.

10:56:46 10 Q. Okay. What were the gross proceeds from those sales?

10:56:49 11 A. It's going to be right around \$9 million to date.

10:56:52 12 Q. In fact, doing any of the expenses that the government has
10:56:56 13 outlaid for the care of those horses, what's the net proceeds to
10:56:59 14 date?

10:56:59 15 A. I think it's going to be somewhere between \$6.5 and \$7
10:57:03 16 million.

10:57:03 17 Q. Now, I'd like to turn your attention to the two airplanes
10:57:06 18 listed on page 22 of the indictment. You testified to this
10:57:12 19 already with respect to the airplanes as discussed by Mr.
10:57:17 20 Hinojosa and will be discussed by Special Agent Lawson. Were
10:57:20 21 those airplanes assets of ADT?

10:57:22 22 A. Yes.

10:57:24 23 Q. And with respect to the Hawker, when was the 2005 Hawker
10:57:28 24 purchased?

10:57:28 25 A. The Hawker was actually purchased in 2012. It was a number

10:57:36 1 of payments come through UBS, ADT's accounts to purchase a
10:57:44 2 particular plane. And we actually perfected the warrants and, in
10:57:51 3 fact, flew the planes prior to the title being issued to the name
10:57:55 4 of Francisco Colorado and/or ADT.

10:57:57 5 Q. What was the approximate purchase price of that plane? If I
10:58:03 6 were to give you 4.5 million, would you dispute that amount?

10:58:06 7 A. No. I would not.

10:58:07 8 Q. What were the source of these payments by Mr. Colorado?

10:58:10 9 A. They were the funds through UBS.

10:58:12 10 Q. And where is that plane currently?

10:58:13 11 A. At Houston Hobby.

10:58:15 12 Q. And who is it under the control of?

10:58:18 13 A. OFAC has it frozen. I'm not sure who's actually
10:58:23 14 maintaining, maintenance or --

10:58:24 15 Q. But it's essentially seized by the U.S. Treasury Department
10:58:28 16 office or an aspect of control?

10:58:30 17 A. That is correct.

10:58:30 18 Q. Now, talk about the 2005 King Air purchase. When was that
10:58:34 19 purchase?

10:58:35 20 A. There was a contract entered into in October of 2005, I
10:58:42 21 believe is the date, which called for a \$3 million down payment
10:58:48 22 and then, monthly payments for the next five years of \$35,000 a
10:58:52 23 month as kind of a lease purchase agreement. Francisco Colorado
10:58:59 24 was the guarantee of that money. And then, in October of 2011,
10:59:05 25 that plane was actually deeded to Francisco Colorado and ADT.

10:59:10 1 Q. So where do the source of the payments for the lease option
10:59:13 2 to purchase come from?

10:59:15 3 A. We had Charlie Hinojosa basically state that part of that
10:59:23 4 six million was used to purchase King Air. And then, the
10:59:30 5 payments, I believe, Mr. Fernald through his analysis of records
10:59:34 6 received through reciprocal discovery showed a number of payments
10:59:38 7 in 2011 that were made to ALE in conjunction with that plane.

10:59:45 8 Q. And did those payments come from ADT Petro Servicios?

10:59:50 9 A. Yes. I believe they did.

10:59:51 10 Q. And where is that plane currently?

10:59:53 11 A. It is at Houston Hobby.

10:59:56 12 Q. So were both of these planes ultimately purchased or
10:59:59 13 transferred to Mr. Colorado-Cessa during the timeframe of the
11:00:02 14 conspiracy listed in the superseding indictment?

11:00:04 15 A. Yes.

11:00:04 16 Q. May I have one moment, your Honor?

11:00:07 17 THE COURT: You may.

11:00:14 18 MR. GARDNER: Your Honor, pass the witness.

11:00:23 19 CROSS-EXAMINATION

11:00:25 20 BY MR. LECHTENBERGER:

11:00:25 21 Q. Agent Pennington, do you have any direct evidence of cash
11:00:27 22 payments of horses by Jose Trevino as a payer, in other words,
11:00:37 23 sir?

11:00:37 24 A. No, sir.

11:00:38 25 Q. Do you have any evidence of direct check payments of horses

11:00:43 1 directly by Jose Trevino?

11:00:46 2 A. There are a couple of horses that were -- where a check was
11:00:53 3 written by Jose Trevino to other people and a horse was
11:00:57 4 transferred to his name. There's several of those occasions.

11:01:00 5 Q. Can you give me an approximate amount of what that is?

11:01:03 6 A. A total, no. If you want to go horse by horse, I can give
11:01:09 7 you an idea of some of those examples.

11:01:10 8 Q. Based on your last response, though, when you answered my
11:01:15 9 question in regards to Jose Trevino being the payer, can you give
11:01:19 10 me a ballpark idea? Was it less than 500,000? Was it more than
11:01:23 11 500,000? And if you don't know, that's okay, also.

11:01:28 12 A. I do not know.

11:01:29 13 Q. Fair enough, Agent. I'll move on.

11:01:31 14 Do you have any evidence -- direct evidence as to any
11:01:34 15 type of credit card payments of horses by Jose Trevino?

11:01:37 16 A. Yes. I believe one horse for \$5,000.

11:01:41 17 Q. That's all I have, Judge. Thank you.

11:01:43 18 THE COURT: Yes, sir.

11:01:47 19 MR. SANCHEZ: No questions, your Honor.

11:01:49 20 MR. WOMACK: No questions.

11:01:52 21 MR. PARRAS: No questions.

11:01:53 22 MR. ESPER: I do, your Honor.

11:01:54 23 THE COURT: All right.

11:01:54 24

11:01:55 25

CROSS-EXAMINATION

BY MR. ESPER:

Q. Mr. Pennington, the witness that you referred to who testified at trial was actually Mr. Guadalajara; is that correct?

A. Okay. Without seeing and going back to notes, I couldn't be sure which one it was. But that would not -- I would not dispute that.

Q. This is the guy who made the joke about sending a courier and made a joke to Mr. Huitron about where the kilos of cocaine?

A. Correct.

Q. And that somehow, this information got back to "40" and was relayed to you or was related to him by Mr. Cuellar, correct?

A. Correct.

Q. And that this courier got chastised or reprimanded for making such a comment, correct?

A. Yes.

Q. And do you know, and if you recall, whether or not, outside the presence of the jury, I confronted Mr. Guadalajara with his interview by Agent Lawson and he never made such a statement? Do you recall that testimony?

A. No.

Q. You don't? Okay.

Now, you say there's another confidential source who didn't testify at trial but that you have interviewed, correct?

A. Correct.

11:03:02 1 Q. And this confidential source, I believe your testimony was
11:03:06 2 that he saw Mr. Huitron in Nuevo Laredo talking to "40" at some
11:03:13 3 unknown time.

11:03:14 4 A. I don't know if I referred to as a he or she, but the person
11:03:18 5 was present during a conversation between Huitron and "40."

11:03:23 6 Q. And they were talking about horses, correct?

11:03:25 7 A. Correct. "Mamito's" horses.

11:03:27 8 Q. Pardon me?

11:03:28 9 A. "Mamito's" horses.

11:03:29 10 Q. Okay. And what timeframe are we talking about that this
11:03:33 11 person relayed to you, if you know?

11:03:37 12 A. Within the last year.

11:03:38 13 Q. So it would have been 2012?

11:03:44 14 A. I can't give you specific dates.

11:03:46 15 Q. Okay. So within the last twelve calendar months?

11:03:51 16 A. I believe that's correct.

11:03:53 17 Q. Okay. And shortly before his arrest, is that what you're
11:03:57 18 saying?

11:03:57 19 A. Before whose arrest?

11:03:59 20 Q. Mr. Huitron's arrest.

11:04:02 21 A. Okay. Repeat the question.

11:04:03 22 Q. Okay. The confidential source --

11:04:05 23 THE COURT: Was it before Mr. Huitron got arrested?

11:04:08 24 A. The information came after Mr. Huitron was arrested.

11:04:11 25 Q. (BY MR. ESPER) Okay.

11:04:12 1 A. That I received the information.

11:04:13 2 Q. Yes. And the information was that they saw Mr. Huitron
11:04:16 3 talking to "40" some time before April or June of 2011, whenever
11:04:24 4 he was arrested?

11:04:26 5 A. 2012. Yes. The meeting took place, I want to say, back in
11:04:31 6 2009, 2010 --

11:04:33 7 Q. Okay.

11:04:34 8 A. -- timeframe.

11:04:34 9 Q. So back during the three or four years preceding trial in
11:04:39 10 this case, correct?

11:04:40 11 A. Correct.

11:04:40 12 Q. All right. And they were talking about a horse --
11:04:44 13 "Mamito's" horses?

11:04:45 14 A. Yes.

11:04:45 15 Q. Okay. They weren't talking about drug dealing, were they?

11:04:48 16 A. That wasn't mentioned.

11:04:50 17 Q. Okay. But what was mentioned was -- this person to you in a
11:04:55 18 debriefing was that everybody knew what "40" did, or if they
11:05:01 19 didn't know, they'd better be careful, something to that effect?

11:05:04 20 A. No. The source told the people if they didn't know, the
11:05:08 21 source told the people whose money it was so they would be
11:05:12 22 careful. So, therefore, the source said everyone knew.

11:05:15 23 Q. Okay. So this source is making assumptions, then, that
11:05:18 24 everybody knew whose money was paying for these horses and
11:05:22 25 trainers's fees?

11:05:23 1 A. Or he would tell -- or the person would tell them.

11:05:26 2 Q. Okay. That's all I have, your Honor.

11:05:32 3 RE-DIRECT EXAMINATION

11:05:32 4 BY MR. GARDNER:

11:05:34 5 Q. Mr. Lechtenberger asked you whether or not any cash or
11:05:36 6 checks were provided by Mr. Jose Trevino for horses. I believe
11:05:41 7 your response was no, correct?

11:05:43 8 A. Correct.

11:05:45 9 Q. And I know everyone's loathe to hear this again, but how
11:05:49 10 much money did Mr. Jose Trevino pay for 35 mares?

11:05:52 11 A. Nothing.

11:05:53 12 Q. Nothing. And what's the value of those 35 mares?

11:05:57 13 A. I want to say approximately two million.

11:05:59 14 Q. And were those 35 mares put in Mr. Jose Trevino's name?

11:06:03 15 A. Yes, or his company's name.

11:06:05 16 Q. Okay. That's all I have, your Honor.

11:06:11 17 THE COURT: Anything further?

11:06:12 18 MR. LECHTENBERGER: No, your Honor.

11:06:13 19 THE COURT: All right.

11:06:15 20 MR. SANCHEZ: No, your Honor.

11:06:15 21 THE COURT: Any further questions?

11:06:17 22 MR. ESPER: Just one, your Honor.

11:06:18 23 RE-CROSS EXAMINATION

11:06:19 24 BY MR. ESPER:

11:06:19 25 Q. You say Mr. Huitron trained 40 horses?

11:06:24 1 A. He was participating, I believe, in training probably more
11:06:27 2 than that. And the reason I say that is we've got records on the
11:06:30 3 number of horses that were taken to his ranch in 2010. And then,
11:06:35 4 he also assisted in training -- there's like 20 or some horses in
11:06:40 5 Ruidoso in 2012 that he participated in. So it could be well in
11:06:44 6 excess of 40.

11:06:45 7 Q. Okay. And the context of this conspiracy, there was about
11:06:48 8 500 horses, are there not?

11:06:50 9 A. Yes.

11:06:50 10 Q. Okay. And he was about -- had approximately 40?

11:06:54 11 A. I'm probably --

11:06:56 12 Q. More or less?

11:06:56 13 A. Probably more than that.

11:06:57 14 Q. Few more than that?

11:06:58 15 A. More than that.

11:06:59 16 Q. That area. Correct. That's all.

11:07:05 17 THE COURT: You may step down. You may call your next
11:07:11 18 witness.

11:07:11 19 MR. GARDNER: Your Honor, the government calls Special
11:07:14 20 Agent Scott Lawson.

11:07:24 21 THE COURT: Be sworn, please.

11:07:25 22 (Witness sworn.)

11:07:39 23 THE COURT: Please state your full name and spell your
11:07:40 24 last.

11:07:41 25 THE WITNESS: My name is Scott Lawson. Last name is

11:07:45 1 L-A-W-S-O-N.

11:07:48 2 THE COURT: It's your witness.

11:07:49 3 SCOTT LAWSON, called by the Government, duly sworn.

11:07:49 4 DIRECT EXAMINATION

11:07:49 5 BY MR. GARDNER:

11:07:50 6 Q. Thank you, your Honor.

11:07:51 7 Special Agent Lawson, I'd like to first address Jose
11:07:53 8 Trevino's objection number two relating to his PSI, paragraphs 43
11:08:00 9 and 91 with respect to his knowledge of controlled substance.

11:08:04 10 Could you reiterate the information provided by Jose
11:08:07 11 Vasquez, Jr. in terms of direct cash payments made by his
11:08:11 12 organization to Jose Trevino?

11:08:14 13 A. Yes, sir. Jose Vasquez, Jr. had a driver deliver \$100,000
11:08:20 14 cash to Jose Trevino in a Wal-Mart parking lot in Grand Prairie,
11:08:24 15 Texas.

11:08:24 16 Q. And how was Mr. Jose Vasquez, Jr. directed to do that?

11:08:28 17 A. By "Poncho" Cuellar.

11:08:30 18 Q. Now, did you also have the occasion to interview an
11:08:34 19 individual named Hector Rodriguez, incarcerated in the Dallas
11:08:37 20 federal prison system?

11:08:39 21 A. I did.

11:08:40 22 Q. And what information did Mr. Hector Rodriguez provide with
11:08:43 23 respect to Mr. Jose Trevino's knowledge of the Zeta controlled
11:08:47 24 substances operation?

11:08:49 25 A. Rodriguez stated that he would meet Jose Trevino in parking

11:08:53 1 lots in the Dallas, Texas area and deliver bags of cash to Jose
11:08:58 2 Trevino.

11:08:59 3 Q. And where were those bags of cash going?

11:09:02 4 A. Back to Mexico.

11:09:03 5 Q. And where did Mr. Hector Rodriguez obtain that cash from?

11:09:06 6 A. From the sale of cocaine.

11:09:08 7 Q. Was Mr. Hector Rodriguez familiar with "40"?

11:09:11 8 A. He was.

11:09:12 9 Q. Okay. And what was the relationship between Mr. Hector
11:09:14 10 Rodriguez and "40"?

11:09:16 11 A. Hector Rodriguez had met "40" years prior, and then, he
11:09:21 12 became a cocaine distributor for him in, I want to say, around
11:09:25 13 2006 or 7.

11:09:27 14 Q. Before the timeframe alleged in our conspiracy?

11:09:30 15 A. That's correct.

11:09:31 16 Q. And he was arrested around that timeframe and incarcerated
11:09:34 17 in the Dallas area, correct?

11:09:36 18 A. That's correct.

11:09:36 19 Q. Now, you were also present during interviews with respect to
11:09:39 20 the cooperating source that Mr. Pennington talked about, correct?

11:09:42 21 A. That is correct.

11:09:43 22 Q. Now, could you relate to the Court what information that
11:09:46 23 individual provided with respect to Jose Trevino's knowledge of
11:09:50 24 his brother's activities?

11:09:52 25 A. That individual, as well as "Poncho" Cuellar, stated that

11:09:56 1 Jose Trevino would be driven to Piedras Negras with spreadsheets
11:10:01 2 of monthly expenses, and then, there he would meet with his
11:10:05 3 brother Miguel and Omar and discuss the expenses and how the
11:10:08 4 expenses should be paid for the horse operation. That individual
11:10:12 5 also stated that Jose had a Mexican TelCel telephone to
11:10:18 6 communicate with Miguel Trevino. And through Tyler Graham, we
11:10:24 7 were able to discover that Victor Lopez brought a phone from
11:10:27 8 Nuevo Laredo for the sole purpose of delivering that phone to
11:10:30 9 Jose Trevino.

11:10:31 10 Q. And that was the phone that you were able to look at and
11:10:34 11 determine how many numbers were on there, correct?

11:10:36 12 A. That particular phone, we had Tyler Graham look at and then,
11:10:41 13 report back to us. On the day of the arrest of Jose Trevino, I
11:10:44 14 found a Mexican TelCel, either the same one or very similar
11:10:50 15 circumstance.

11:10:51 16 Q. Now, do you recall the testimony of TFO Johnny Sosa?

11:10:54 17 A. I do.

11:10:55 18 Q. Now, there was one question that I didn't ask him, and it
11:10:57 19 related to a cellphone found in a Jose Trevino residence in Balch
11:11:02 20 Springs?

11:11:02 21 A. That's correct. During the timeframe of Jaime Zapata's
11:11:06 22 death in Mexico, U.S. law enforcement conducted several
11:11:09 23 knock-and-talks with Zeta associates, and one happened to be at
11:11:13 24 Jose Trevino's house that was led by TFO Sosa in Dallas. Consent
11:11:19 25 to search the house was granted by Mr. Trevino, and one of the

11:11:22 1 things located was a Mexican TelCel with only one number
11:11:27 2 programmed.

11:11:30 3 Q. Now, this cooperating individual, what did he or she explain
11:11:34 4 to you as Jose Trevino's role in the money-laundering
11:11:39 5 organization?

11:11:41 6 A. He or she described Jose Trevino as the leader on the U.S.
11:11:44 7 side of the money-laundering operation. Jose Trevino had
11:11:50 8 approximately 17 employees at the time of the takedown. They all
11:11:54 9 called Jose "Don Jose." Cooperating source informed us that Jose
11:11:59 10 instructed his employees to call him Don Jose. Also described
11:12:03 11 where arguments among members of the conspiracy about whether a
11:12:07 12 horse should be retired or race in the future.

11:12:10 13 Q. Let me hold you up there because that sort of goes to
11:12:12 14 objection number four as leader/organizer. I still want to stick
11:12:15 15 on the knowledge of his money coming from the Zeta drug
11:12:20 16 organization.

11:12:20 17 Were you also present during an interview of a witness
11:12:23 18 named -- with a code name "Pitufo"?

11:12:26 19 A. I was.

11:12:27 20 Q. Does that individual wish his true name be held confidential
11:12:31 21 for fear of reprisals in Mexico?

11:12:33 22 A. That's correct.

11:12:34 23 Q. And with respect to "Pitufo's" information, what did he --
11:12:38 24 did he identify that he knew Jose Trevino?

11:12:40 25 A. He did.

11:12:40 1 Q. And what information did he provide with respect to Jose
11:12:44 2 Trevino's knowledge of the Zetas's drug-trafficking organization?

11:12:48 3 A. He described that he had met Jose in Dallas, in Houston, and
11:12:52 4 that they had talked about possible stash locations for
11:12:56 5 narcotics.

11:12:56 6 Q. What timeframe was this, do you recall?

11:13:02 7 A. I do not recall the time.

11:13:06 8 Q. And if you will, could you explain your information, your
11:13:10 9 knowledge of Victor Lopez's association with the Zeta
11:13:13 10 drug-trafficking organization and as it relates to Jose Trevino?

11:13:16 11 A. Yes, sir. Victor Lopez was identified in an undercover
11:13:20 12 money drop to a U.S. undercover. We identified him then, and
11:13:25 13 then, we began to track him as he delivered funds to Southwest
11:13:29 14 Stallion Station in Elgin, Texas. Shortly thereafter, we had a
11:13:34 15 consensually monitored phone in which Victor Lopez began to make
11:13:38 16 multiple calls in reference to moneys owed to various locations
11:13:42 17 and to money going to Jose Trevino and to Mexico.

11:13:46 18 At one point, Victor Lopez sent some money to Tyler
11:13:50 19 Graham at Southwest Stallion Station and asked Tyler Graham to
11:13:53 20 forward that money to Jose Trevino, and Tyler refused because he
11:13:56 21 had a large bill owed by these associates. Shortly thereafter,
11:14:02 22 Victor Lopez booked a one-day turnaround flight from Laredo,
11:14:05 23 Texas to Oklahoma City and then, back to Laredo, all in a 24-hour
11:14:10 24 period. Surveillance captured Victor Lopez meeting with Jose
11:14:15 25 Trevino in Oklahoma City airport parking garage. This meeting

11:14:18 1 lasted five minutes. And our source of information is that
11:14:21 2 Victor took the money that Tyler wouldn't give to Jose.

11:14:24 3 Upon completion of this meeting, law enforcement had
11:14:26 4 Jose Trevino stopped -- traffic-stopped in Oklahoma City and
11:14:30 5 Victor Lopez --

11:14:31 6 Q. I don't want to cut you off too much. We've heard all that.
11:14:34 7 Tell me about Victor Lopez being stopped. Didn't come out in
11:14:38 8 trial. What happened in that instance?

11:14:39 9 A. Victor Lopez was also detained at the airport in Dallas on
11:14:43 10 his connection back to Laredo. So we have Jose stopped and
11:14:46 11 Victor stopped simultaneously. Victor Lopez self-reported back
11:14:50 12 to the Zetas when he got to Mexico, because he thought that was
11:14:53 13 the right thing to do, that he had been detained. Jose Trevino
11:14:56 14 complained to the CS that Victor had called on his own detention
11:15:02 15 and had him traffic-stopped in Oklahoma City, and Victor Lopez
11:15:06 16 was murdered approximately three weeks after the traffic stop.

11:15:10 17 Q. And did the cooperating source indicate that he relayed Jose
11:15:14 18 Trevino's message to his brothers "40" and "42"?

11:15:18 19 A. Yes.

11:15:18 20 Q. And did the cooperating source indicate that Victor Lopez
11:15:21 21 was murdered by the Zetas based on the information provided by
11:15:24 22 Jose Trevino?

11:15:25 23 A. Yes. The cooperating source was actually on the phone with
11:15:28 24 the leader of the hit team that was looking for Victor Lopez.

11:15:31 25 Q. And the leader of the hit team, what did he relay to the

11:15:33 1 cooperating source?

11:15:35 2 A. He relayed that the leader of the hit team was "Yo Yo,"

11:15:39 3 Ricardo De La Vega, which was also Victor Lopez's cousin. And he

11:15:43 4 relaid that they wish they could tell him to run but they

11:15:46 5 couldn't and that they were going to have to kill him.

11:15:49 6 Q. Now, although the Court heard this at pretrial, there was a

11:15:53 7 series of texts obtained from Alexandra Trevino's computer?

11:15:59 8 A. Yes.

11:15:59 9 Q. What did those texts contain to indicate the family's

11:16:04 10 knowledge of the brother's drug activities?

11:16:06 11 A. Sure. Alex was texting who we believe to be her fiance at

11:16:11 12 the time, and basically the text relayed that she was very happy

11:16:16 13 that they chose her direct family to give this business to. And

11:16:21 14 then, shortly thereafter, she referenced the horses and she said

11:16:24 15 that her aunts were upset that they weren't picked, but that her

11:16:27 16 and her dad were hard-working and that they chose that family to

11:16:29 17 give this business to.

11:16:31 18 THE COURT: You asked about a brother in your question.

11:16:34 19 Were you talking about somebody else?

11:16:38 20 MR. GARDNER: No, your Honor. I was referring to "40"

11:16:40 21 and "42," correct? Brothers.

11:16:43 22 THE WITNESS: Yes, sir. That's what I understood.

11:16:44 23 MR. GARDNER: I apologize. I should have been more

11:16:45 24 clear.

11:16:46 25 Q. (BY MR. GARDNER) Were you also present obviously during the

11:16:50 1 testimony but the interviews of an individual that we all know as
11:16:54 2 "Mamito"?

11:16:54 3 A. I was.

11:16:55 4 Q. And what information did he say with respect to Tempting
11:16:59 5 Dash?

11:16:59 6 A. "Mamito" described that he had wanted Tempting Dash and
11:17:04 7 asked Ramiro to pick up Tempting Dash at auction for him. That
11:17:08 8 "40," Miguel Trevino, took Tempting Dash. He described the
11:17:11 9 course of Tempting Dash running in Texas, and eventually
11:17:14 10 described that he was ordered to give Tempting Dash to Jose
11:17:17 11 Trevino.

11:17:18 12 Q. And was that also confirmed by the calls on Villarreal's T3
11:17:25 13 intercept, produced as Government's Exhibit 381A and 381B?

11:17:28 14 A. Yes, sir. That's correct.

11:17:30 15 Q. Okay. Now, the Court has indicated that the sophisticated
11:17:35 16 laundering objection information, I just want to talk about a
11:17:42 17 couple of things to indicate -- I'm sorry. Let me just go
11:17:46 18 forward to objection number four, which he objects on paragraph
11:17:49 19 No. 5 to being leader, organizer, supervisor.

11:17:52 20 Could you inform the Court with respect to the method
11:17:56 21 in which horses were transferred and renamed in terms of
11:18:02 22 backdated sales?

11:18:03 23 A. Sure. As stated previously in trial, a large number of
11:18:07 24 horses were bought, and in the middle, beginning to middle stages
11:18:10 25 of this conspiracy, only the best were transferred to Jose. Jose

11:18:14 1 did not have the funds to buy the best horses, so they would be
11:18:18 2 transferred to him in his name. The contract's backdated to show
11:18:23 3 that Jose bought it before a race in which one of these horses
11:18:27 4 earned money, but in theory, in reality, he did not receive --
11:18:32 5 did not pay the seller till after the horse won.

11:18:35 6 Q. And so, how many horses did you track that were transferred
11:18:39 7 from various nominees to Jose Trevino between winning a qualifier
11:18:45 8 or winning a trials race and qualifying for a final large payout
11:18:50 9 race?

11:18:50 10 A. I believe it was six.

11:18:55 11 Q. Now, you mentioned something earlier, before I cut you off,
11:18:59 12 with decision to retire or continue to race a certain horse.

11:19:04 13 That horse was Mr. Piloto, correct?

11:19:06 14 A. That's correct.

11:19:06 15 Q. Could you describe what Mr. Graham testified to as well as
11:19:12 16 information from the CS regarding decision to race or retire Mr.
11:19:14 17 Piloto?

11:19:15 18 A. There was some disagreement among Jose and his inner circle
11:19:19 19 about whether to race or retire Mr. Piloto. Most in the horse
11:19:24 20 industry thought they should retire him because they knew they
11:19:26 21 had bribed that race and that the horse wasn't that good. So
11:19:30 22 Jose wanted to continue to race Mr. Piloto, and CS-1 and some of
11:19:37 23 the others giving opinions believed that they should retire Mr.
11:19:39 24 Piloto and begin to breed him immediately.

11:19:42 25 Jose ultimately won that decision because he was the

11:19:44 1 leader on the U.S. side. And Mr. Piloto was sent to California
11:19:48 2 to continue training. But Piloto ultimately received an injury
11:19:52 3 and did not race again after Ruidoso.

11:19:56 4 Q. Now, you also referenced earlier a bit of the consensual
11:20:00 5 calls, consensual phone provided to Mr. Tyler Graham at
11:20:04 6 Government's Exhibit 360A. Could you refresh, for the record,
11:20:08 7 the call between Tyler Graham and Fernando Garcia with respect to
11:20:13 8 don't tell Jose?

11:20:14 9 A. Sure. It was after one of the many auctions that the
11:20:18 10 associates attended and Tyler was asking Fernando Garcia which
11:20:22 11 horses they purchased, you know, what the bloodlines were, how
11:20:25 12 much they paid, whose name, that kind of thing. And Fernando was
11:20:28 13 a little slow to answer, and finally, Fernando told Tyler what
11:20:31 14 horses they bought and he said, but don't tell Jose I told you.
11:20:35 15 You know how he is.

11:20:38 16 Q. With respect to his daughter and wife Zulema and Alexandra,
11:20:44 17 what activities did Mr. Jose Trevino conduct that indicated he
11:20:47 18 was directing them in this case?

11:20:51 19 A. He employed them through one of his three shell companies
11:20:55 20 and directed them to carry out different administrative duties to
11:20:59 21 include signing faxes, sending bills, and those types of things.

11:21:03 22 Q. Who is Rodolfo Trevino?

11:21:05 23 A. That is another brother of Jose Trevino.

11:21:07 24 Q. And what activities did Jose Trevino take with regards to
11:21:11 25 directing him?

11:21:12 1 A. Rodolfo was kind of assigned to be the chief laborer, if you
11:21:17 2 will, at the ranch. He kind of was over some of the other
11:21:21 3 laborers, and he was provided a doublewide trailer to live in on
11:21:27 4 the ranch.

11:21:27 5 Q. With respect to Ms. Shalyn Bliss, she testified as the vet,
11:21:30 6 and Ms. Sharon Moore as the accountant. Did Jose Trevino
11:21:33 7 exercise sort of a supervisory or direction -- provide direction
11:21:39 8 over those two individuals?

11:21:40 9 A. Yes. And Shalyn Bliss testified that things had happened in
11:21:43 10 the normal course of a veterinarian's work, such as inviting
11:21:48 11 sellers of veterinarian drugs that she would invite them to the
11:21:52 12 ranch, and Jose would run them off and he made the decisions on
11:21:54 13 the ranch.

11:21:55 14 Q. I'd like to turn your attention to Francisco Colorado's
11:22:00 15 objections one and two. We heard from Special Agent Pennington
11:22:04 16 with respect to 18 million testified to, information provided by
11:22:10 17 Mr. Hinojosa.

11:22:13 18 Did the cooperating source provide information as to
11:22:16 19 other moneys provided to Mr. Colorado-Cessa from the Zeta
11:22:20 20 organization?

11:22:21 21 A. The cooperating source provided information to an additional
11:22:25 22 12 million sent to Cessa, described that Miguel Trevino put it in
11:22:30 23 an 18-wheeler in Mexico and asked the cooperating source to
11:22:34 24 call --

11:22:35 25 MR. SANCHEZ: Judge, again, I'm going to object on the

11:22:37 1 same grounds of hearsay. And I understand there may not be full
11:22:40 2 rights of confrontation, but now we're not even getting a name or
11:22:43 3 any information that we can use to impeach this faceless person
11:22:48 4 that was testifying through Mr. Lawson.

11:22:52 5 THE COURT: Well, I'll permit you to do your best. The
11:22:56 6 Court's certainly aware it doesn't hold much credibility with
11:23:01 7 non-identifiable people, but they're entitled to make their
11:23:05 8 record just like you are, sir.

11:23:08 9 Q. (BY MR. GARDNER) And how was that money designated to be
11:23:10 10 distributed?

11:23:12 11 A. It was two loads, one of two million, one of 10 million.
11:23:16 12 And the \$2 million load was what was actually used for the
11:23:19 13 Ruidoso \$2.2 million purchase in September of 2010 by Francisco
11:23:24 14 Colorado. The 10 million was instructed to hold, and was
11:23:28 15 eventually estimated that 6 million of that was used on horses,
11:23:32 16 and the remaining four was safeguarded with Francisco Colorado.

11:23:38 17 Q. With respect to the CS, what information did this individual
11:23:41 18 provide regarding Francisco Colorado-Cessa's knowledge and
11:23:45 19 involvement for the Zeta drug-trafficking organization?

11:23:48 20 A. He advised that Francisco Colorado was the godfather of
11:23:55 21 "Zeta 14's" son. They met through a mutual love of horses
11:23:57 22 several years ago, that they established ADT together, that
11:24:04 23 Francisco Colorado was present in multiple horse races in Mexico
11:24:07 24 when Miguel Trevino and Heriberto Lazcano and "Mamito" and that
11:24:13 25 they were together on several occasions.

11:24:16 1 Q. And following the death of Efrain Torres, what did this
11:24:19 2 individual provide you with respect to Colorado Cessa's
11:24:24 3 accounting to the Zeta drug-trafficking organization?

11:24:27 4 A. Through this CS and multiple informants to include Charlie
11:24:32 5 Hinojosa and "Pitufo," we were told about a meeting in Tampico
11:24:36 6 shortly after "14's" death that Colorado was summoned to go to to
11:24:40 7 account for the moneys that he had had with "Zeta 14."

11:24:46 8 Q. And was that also the meeting testified to by "Mamito"?

11:24:50 9 A. That's correct.

11:24:53 10 Q. And did the CS provide you any information with respect to
11:24:57 11 the use of Mr. Colorado's ranch by the Zetas?

11:25:01 12 A. The CS stated shortly after that meeting that the CS was
11:25:06 13 present when "40," "42" and "Mamito" showed up at Flor de Maria
11:25:11 14 in Tuxpan. They wanted to see Colorado's horses and his cattle
11:25:16 15 and talk about maybe using the ranch for some of their own
11:25:19 16 animals.

11:25:20 17 Q. And if you will, although it was in a prior proceeding,
11:25:23 18 could you, again, illuminate the Court as to the actions by the
11:25:27 19 Mexican law enforcement on Flor de Maria Ranch in the killing and
11:25:31 20 gun battle with drug-trafficking organizations?

11:25:33 21 A. Sure. In early 2012, I believe March or April, Mexican
11:25:40 22 military had a gun battle with many members of the Zetas on
11:25:43 23 Francisco Colorado's ranch in which a high-ranking class boss was
11:25:48 24 killed.

11:25:48 25 Q. I'm also referring you back -- you've already mentioned a

11:25:51 1 little bit but Government's Exhibit 381A and 381B, the T3 calls
11:25:55 2 from Ramiro Villarreal. What mention of Colorado-Cessa were on
11:25:59 3 those calls?

11:26:03 4 A. I remember just very briefly that Colorado's name was
11:26:07 5 mentioned in reference to horses, but I would have to review to
11:26:11 6 give you more context on that.

11:26:14 7 Q. Now, with respect to the meeting, was it indicated that
11:26:18 8 Colorado-Cessa, according to objections by Mr. Cessa, that he was
11:26:23 9 paying off a debt and, therefore, out of the organization during
11:26:27 10 that meeting?

11:26:28 11 A. No.

11:26:28 12 Q. What was the indication with respect to his debt owed to the
11:26:32 13 Zetas?

11:26:33 14 A. There was an indication that Miguel knew that "Chispa" had a
11:26:38 15 lot of Zeta money invested with Colorado. When I say "Chispa,"
11:26:42 16 that's "Zeta 14." A nickname for "Zeta 14." And that he was
11:26:46 17 called to account for what moneys he had with "Zeta 14." There
11:26:51 18 was some debt that Francisco Colorado had lost money in betting
11:26:56 19 on horses with various persons, and "Zeta 14" had allowed
11:27:01 20 Colorado to invest in cocaine loads to make up money for those
11:27:06 21 debts.

11:27:08 22 Q. And the Court's heard the testimony of "Mamito," but just
11:27:12 23 briefly, what did "Mamito" testify as to the annual gross income
11:27:17 24 of the Zeta drug-trafficking organization per year?

11:27:20 25 A. He estimated between 350 and 500 million a year.

11:27:25 1 Q. And, again, with respect to the testimony of Jose Vasquez,
11:27:28 2 Jr., how much per month was coming from Dallas?

11:27:31 3 A. Just in Jose Vasquez's sale in Dallas, Texas, it was 20 to
11:27:35 4 25 million per month.

11:27:37 5 Q. Now, I want to turn to the information provided by this
11:27:41 6 "Pitufo." He was he able to identify members of Colorado-Cessa's
11:27:41 7 family?

11:27:44 8 A. He was.

11:27:45 9 Q. And was he able to identify how Mr. Colorado-Cessa met his
11:27:48 10 current wife?

11:27:53 11 A. He mentioned that his wife's family was associated with -- I
11:28:03 12 can't remember enough specifics to go into that.

11:28:05 13 Q. Was it associated with another drug cartel individual?

11:28:08 14 A. Yes.

11:28:10 15 Q. If I were to use a term "Efrain Torres," would that refresh
11:28:13 16 your memory?

11:28:14 17 A. That's correct.

11:28:15 18 Q. And "Pitufo," what did he testify with respect to any funds
11:28:19 19 that he knew coming from the Zetas to Francisco Colorado-Cessa?

11:28:23 20 A. "Pitufo" stated that Lazcano sent "Pitufo" himself with \$50
11:28:28 21 million to give to Francisco Colorado.

11:28:31 22 Q. What was the \$50 million for?

11:28:32 23 A. To buy machinery to gain further contracts with Pemex.

11:28:36 24 Q. So taking the amount by "Pitufo," Hinojosa and the CS
11:28:41 25 together, how much is that total?

11:28:42 1 A. Approximately \$80 million.

11:28:44 2 Q. And all that come from the Zeta drug-trafficking
11:28:49 3 organization?

11:28:49 4 A. That's correct.

11:28:55 5 Q. And what information did "Pitufo" provide you with respect
11:28:58 6 to who truly owned ADT?

11:29:00 7 A. "Pitufo" stated that ADT was 80 percent Los Zeta and 20
11:29:06 8 percent Francisco Colorado.

11:29:08 9 Q. And did Mr. "Pitufo" identify or know of one Francisco
11:29:15 10 Silva-Ramos?

11:29:17 11 A. I don't remember specifically talking about Ramos with
11:29:20 12 "Pitufo."

11:29:21 13 Q. And if you will, could you please explain to the Court what
11:29:24 14 this "Pitufo" explained to you regarding the use of
11:29:27 15 Colorado-Cessa's assets to move both cocaine and money from the
11:29:31 16 sale of drugs?

11:29:32 17 A. Yes. He said through Colorado's various companies to
11:29:36 18 include Tesco and PIIG, that they had boats and planes, and that
11:29:41 19 two of Mr. Cessa's tugboats were used to go to Panama to pick up
11:29:45 20 kilogram -- multi-ton kilogram loads of cocaine. He also said
11:29:49 21 they would use Cessa's plane to go pick up samples, and when we
11:29:52 22 questioned what a sample was, he said 50 kilograms of cocaine.

11:29:56 23 Q. And these barges and tugs, were they boats owned or operated
11:30:02 24 by ADT, according to Mr. Pitufo?

11:30:05 25 A. He named two specific boats and I don't believe he said ADT.

11:30:11 1 I believe he gave them another company, PIIG or something like
11:30:14 2 that.

11:30:15 3 Q. And to your knowledge, is that company associated with
11:30:18 4 Francisco Colorado-Cessa?

11:30:18 5 A. That's correct.

11:30:19 6 Q. Now I'd like to turn your attention to Defendant Fernando
11:30:24 7 Garcia. His objection number one in paragraph 32 that he did not
11:30:29 8 become aware of this organization or a member until fall of 2010.

11:30:34 9 When did information come to you regarding Fernando
11:30:38 10 Garcia's first involvement in this organization?

11:30:42 11 A. I debriefed Tyler Graham in March of 2010, and he already
11:30:47 12 knew of Fernando Garcia coming to check on Tempting Dash with
11:30:51 13 Carlos Nayan in approximately January of 2010.

11:30:54 14 Q. Okay. And at that point, Tempting Dash, who was the
11:30:57 15 registered owner of Tempting Dash?

11:30:58 16 A. By January of '10, it was in Jose Trevino's name.

11:31:02 17 Q. Now I also refer your attention to Government's Exhibit 226.
11:31:05 18 That's the AQHA records. When did it indicate that Mr. Fernando
11:31:10 19 Garcia obtained the horse known as Mr. Piloto?

11:31:15 20 A. He obtained Mr. Piloto in the spring of 2010, I believe.

11:31:20 21 Q. And, again, who did he obtain that horse from?

11:31:23 22 A. From a member of the conspiracy, Ramiro Villarreal.

11:31:27 23 Q. Now, although they're non-scoring, objection number two is,
11:31:30 24 again, paragraph 34 and that Mr. Garcia did not join the
11:31:35 25 conspiracy, he was a picker of quarter horses. Do you recall --

11:31:42 1 let me back that up. Had not joined the conspiracy until late in
11:31:48 2 picking quarter horses. And he also mentioned about him
11:31:49 3 completing his college degree or proceeding to complete a college
11:31:53 4 degree.

11:31:53 5 Have you looked at the transcripts of Mr. Fernando
11:31:56 6 Garcia's degree projects?

11:31:58 7 A. Yes, sir.

11:31:59 8 Q. Prior to his arrest, when was the last time he actually took
11:32:02 9 a course at the University of Arizona?

11:32:05 10 A. This isn't approximate, but it's like seven years since his
11:32:09 11 last class.

11:32:09 12 Q. So progressing towards a degree is a broad stretch?

11:32:13 13 A. In my estimation, that's not progressing towards a degree.

11:32:19 14 Q. Now, I want to turn your attention to the same objection as
11:32:22 15 of March 2010. Could you explain information you received during
11:32:26 16 the course of this investigation as to Fernando Garcia's role as
11:32:31 17 related with Carlos Nayan?

11:32:34 18 A. Yes, sir.

11:32:34 19 Q. Of their relationship?

11:32:36 20 A. In the very beginning of the investigation, he was described
11:32:38 21 as a translator for Carlos Nayan, but that quickly evolved into
11:32:42 22 the money man for Carlos Nayan. And basically all the U.S.-based
11:32:47 23 companies who didn't have a Spanish speaker, Fernando became the
11:32:51 24 go-to guy, and that progressed into everybody, and on the outside
11:32:54 25 e-mailing their bills to Fernando and then, Fernando sending it

11:32:58 1 to "Yo Yo" in Nuevo Laredo.

11:33:00 2 Q. When you say U.S.-based companies, could you just provide a
11:33:02 3 few examples?

11:33:03 4 A. Sure. Southwest Stallion Station, communicated with
11:33:06 5 Fernando to get paid. I have indirect knowledge that Elgin
11:33:11 6 Veterinary Hospital did. Jeff Tebow, when they needed stuff at
11:33:14 7 Heritage Place, they talked to Fernando. Many of the auction
11:33:21 8 houses and different companies that provided services all
11:33:24 9 described Fernando as who they talked to.

11:33:29 10 When Tyler Graham needed money at Southwest Stallion
11:33:33 11 Station and we were setting up cover deals, he talked to
11:33:36 12 Fernando.

11:33:40 13 Q. With respect to defendant's objection number three on
11:33:44 14 paragraph 40 regarding Mr. Piloto, for the Court's attention,
11:33:47 15 Government's Exhibit 140 as well as Exhibit 226, the AQHA
11:33:52 16 transfer to Ramiro Villarreal, 140 was backdated contracts.
11:33:58 17 Where were those contracts found again?

11:34:00 18 A. We found them on Fernando's computer in New Mexico. We
11:34:05 19 found two backdated contracts in the Huitron Homes search
11:34:13 20 warrant. That's what I recall currently.

11:34:15 21 Q. Were you also able to refer to the Nancy Yearsley Insurance
11:34:20 22 documents?

11:34:21 23 A. I was.

11:34:21 24 Q. And what did those documents together indicate with respect
11:34:26 25 to the sale or transfer of Piloto from Ramiro Villarreal to

11:34:32 1 Fernando Garcia to Jose Trevino?

11:34:33 2 A. The Yearsley document showed a couple of things. That
11:34:36 3 Fernando was speaking for the organization on multiple horses in
11:34:39 4 May 2010, and that he was still dealing with Nancy on Piloto
11:34:45 5 after the backdating contract showed that it belonged to Jose
11:34:48 6 Trevino.

11:34:49 7 Q. And with respect to the transfer of that horse, did CS-1
11:34:54 8 provide information that Fernando Garcia approached Carlos Nayan
11:34:58 9 about the sale of that horse?

11:34:59 10 A. He did. He stated that although the horse was an
11:35:03 11 organization horse from the beginning, that Fernando kind of
11:35:05 12 helped train and break it, and then, when it won a qualifier,
11:35:09 13 Fernando obviously didn't want to take it out of his name. You
11:35:12 14 know, there's a certain allure about having your name on a horse
11:35:14 15 running for \$2 million, and he thought he did the work and was
11:35:17 16 justified in keeping the horse.

11:35:19 17 So he complained that he was being forced to give that
11:35:22 18 horse to Jose Trevino.

11:35:25 19 Q. Now, turning your -- oh, one thing. On the backdated
11:35:28 20 contract, who's the notary between -- the verification of that
11:35:31 21 contract between Fernando Garcia and Jose Trevino?

11:35:34 22 A. Jessica Huitron.

11:35:35 23 Q. And is she located here in Austin, Texas?

11:35:38 24 A. Yes, sir. And the sale, supposedly, in New Mexico.

11:35:41 25 Q. Now, turning your attention to Defendant Garcia's objections

11:35:46 1 four and five on paragraph 75 and 90, in terms of the amount
11:35:49 2 accountable, again, this goes to the length of time he's in the
11:35:52 3 conspiracy.

11:35:53 4 With respect to Government's Exhibits 323A through TT,
11:35:57 5 the Yearsley documents, what indications were in those documents
11:36:02 6 of Fernando Garcia's lengthy involvement in this conspiracy?

11:36:06 7 A. Well, it's dated all the way back to the middle of 2010,
11:36:11 8 Fernando was dealing with Nancy on several organizational horses
11:36:14 9 that were in his name and many that were not in his name. Some
11:36:17 10 that were in Jose Trevino's name. Fernando looked like the owner
11:36:23 11 to Yearsley.

11:36:23 12 Q. And when was the first instance of that, dealings with
11:36:27 13 Yearsley Insurance?

11:36:30 14 A. I want to say July of '10, but I may be off a little bit on
11:36:34 15 that.

11:36:35 16 Q. And was Fernando Garcia in the e-mails and business records
11:36:39 17 of Yearsley Bloodstock with respect to the September '10 Ruidoso
11:36:43 18 sale?

11:36:44 19 A. He was.

11:36:44 20 Q. And what was the amount of horses purchased at that sale?

11:36:47 21 A. \$2.2 million.

11:36:49 22 Q. Were there documents contained within that exhibit from the
11:36:55 23 Heritage Place sale indicating Fernando Garcia was involved in
11:36:58 24 that?

11:36:58 25 A. Yes.

11:36:59 1 Q. And were there documents from the 2010 sale at Los Alamitos
11:37:05 2 indicating Fernando Garcia was responsible for all those horses?

11:37:07 3 A. There was.

11:37:09 4 Q. Now, again, with respect to Mr. Fernando Garcia's
11:37:12 5 involvement, what horse expenses was he paying just at Southwest
11:37:17 6 Stallion Station alone?

11:37:21 7 A. Fernando was overpaying -- by the end of 2011, Fernando was
11:37:26 8 paying for like 150 of the organization's horses at Southwest
11:37:29 9 Stallion Station.

11:37:30 10 Q. And do you recall, approximately, the bill that was racked
11:37:33 11 up for the care and breeding of those horses?

11:37:36 12 A. There in the middle of breeding season, it would be over
11:37:39 13 100,000 a month. During offseason, when he's just storing the
11:37:43 14 horses, it would be smaller, around 30,000.

11:37:46 15 Q. So Mr. Garcia claims he should be held accountable for only
11:37:50 16 \$510,900.

11:37:53 17 I want to turn your attention to Government's Exhibit
11:37:54 18 106A through E. Do you recall those are the catalogs, the sales
11:37:58 19 catalogs?

11:37:59 20 A. Yes, sir.

11:37:59 21 Q. What do those catalogs again indicate?

11:38:03 22 A. Those catalogs pretty much memorialize the organization's
11:38:09 23 actions at auction for three years. It was the sales catalog
11:38:14 24 from all the auctions that the group attended, and they were in
11:38:18 25 Fernando's possession and he had circled which horses and with

11:38:21 1 notes that the organization bought over the course of 2010
11:38:24 2 through 2012.

11:38:26 3 Q. So this corresponds with the more than nine million up to 16
11:38:31 4 million horse purchases as testified to by Special Agent
11:38:35 5 Pennington?

11:38:35 6 A. Yes, sir.

11:38:36 7 Q. Now, were you also able -- in addition to the exhibits, did
11:38:42 8 you personally conduct surveillance on which you observed
11:38:46 9 Fernando Garcia operating as a member of this organization?

11:38:49 10 A. Yes. Several times.

11:38:50 11 Q. Was that multiple times?

11:38:51 12 A. Yes, sir.

11:38:53 13 Q. I think you mentioned it earlier but, again, referring to
11:38:55 14 the CS, what did this individual say Fernando Garcia's role was
11:39:00 15 with regards to expenses in the U.S.?

11:39:04 16 A. That all bills were to be sent to Fernando. All horse
11:39:07 17 registration paperworks were to be maintained by Fernando, and he
11:39:11 18 was to oversee that portion of it.

11:39:14 19 Q. Now I want to refer your attention to Government's Exhibit
11:39:17 20 360, which was a recorded call concerning the cash delivery in
11:39:22 21 January of 2011. Briefly explain the circumstances surrounding
11:39:25 22 that arrangement.

11:39:27 23 A. Just briefly, they owed Tyler Graham approximately \$35,000.
11:39:32 24 They said they had the money in Laredo, but they had no way to
11:39:35 25 get it to him. So we sent an undercover to pick up the money.

11:39:39 1 Fernando provided the telephone number to Tyler of Victor Lopez.
11:39:43 2 We did a successful money pick-up in Laredo, and at the
11:39:47 3 conclusion of that, we had Tyler call Fernando and talk about the
11:39:50 4 success of the money drop. And Fernando in the conversation said
11:39:54 5 it went well and that was a good way to do it and Fernando
11:39:57 6 agreed.

11:40:01 7 Q. Now, there was also an incident on the sale of Blues
11:40:05 8 Ferrari. And I don't have the exhibit number for the photo
11:40:08 9 presented by Mr. Del Rayo, but what role did Fernando Garcia play
11:40:12 10 with respect to the extorted money from Mr. Del Rayo?

11:40:16 11 A. According to CS-1, that basically Fernando's role was to
11:40:20 12 help baby-sit Alfonso Del Rayo as he had just been released from
11:40:25 13 captivity and was forced to fly to the United States and buy
11:40:28 14 Blues Ferrari. There's pictures of Fernando standing by Alfonso
11:40:32 15 Del Rayo, who has a cast like on his hand and bruises on his
11:40:36 16 face. And according to CS-1, everybody there baby-sitting
11:40:40 17 Alfonso Del Rayo was aware of his captivity by the Zetas.

11:40:45 18 Q. According to Government's Exhibit 359A through B.

11:40:55 19 With respect to Bonanza Racing, what activities did
11:40:59 20 Fernando Garcia perform on behalf of Bonanza Racing Stables?

11:41:02 21 A. He was a self-declared manager of Bonanza Stables on the
11:41:06 22 U.S. side. Oversaw that the horses were trained, paid for. He
11:41:12 23 was the guarantee-er of the purchase of most of those horses at
11:41:16 24 auction, and upon his arrest, stated that he was a manager for
11:41:21 25 Francisco Colorado.

11:41:23 1 Q. And Mr. Fernando Garcia's objection, he states there's no
11:41:26 2 factual basis for accounting Mr. Garcia for any of the expenses
11:41:30 3 for any of the horses not personally owned by himself.

11:41:34 4 Refer your attention to Government's Exhibit 364, New
11:41:38 5 Mexico A through DDD. Were those Fernando Garcia's computers?

11:41:43 6 A. Yes, sir. That's his computers that we obtained in New
11:41:46 7 Mexico.

11:41:46 8 Q. Okay. And what information with respect to expenses was
11:41:49 9 contained on that computer?

11:41:51 10 A. On that computer, I found countless bills from horse
11:41:55 11 haulers, veterinarians, trainers, breeding facilities, and
11:41:59 12 several of them weren't even addressed to Fernando. They would
11:42:02 13 be addressed to Nayen, or Jose, or various places. But Fernando
11:42:06 14 was in possession of all those bills.

11:42:08 15 Q. And through Special Agent Bill Johnston, DEA, were Fernando
11:42:14 16 Garcia's e-mail accounts obtained, Government's Exhibit 358D,
11:42:18 17 Fernie004?

11:42:19 18 A. That's correct.

11:42:20 19 Q. Did that e-mail have much of the same attachments as found
11:42:22 20 on his computer?

11:42:23 21 A. Yes. There's several of those bills that Fernando had. He
11:42:26 22 was e-mailing to "Yo Yo" in Mexico.

11:42:29 23 Q. And with respect to not paying expenses, could you briefly
11:42:33 24 recount for the Court the \$51,000 that Fernando Garcia arranged
11:42:38 25 to be wired to Heritage Place auction house?

11:42:40 1 A. Sure. There was an auction in January of 2012. The group
11:42:45 2 paid most of the bill, but they left 51,000 outstanding. "Yo Yo"
11:42:50 3 delivered money to Jose Canales in Laredo, Texas via Victor
11:42:56 4 Lopez. That money was structured into Heritage Place's account,
11:43:01 5 structured deposits of \$9,000 to equal 51,000. And then, those
11:43:06 6 deposit slips were e-mailed to Fernando, and Fernando e-mailed
11:43:09 7 those to Heritage Place.

11:43:10 8 Q. Now, defense objection number one is a legal objection, so
11:43:16 9 I'll pass on to objection number seven with respect to his
11:43:18 10 leadership role.

11:43:19 11 Could you briefly discuss his leadership role with
11:43:24 12 respect to Eusevio Huitron in March 2012?

11:43:28 13 A. Sure. There's two separate occasions when Fernando was
11:43:32 14 pretty much running the Ruidoso barn for the organization's
11:43:35 15 horses, but the second occasion was in the spring of 2012.
11:43:39 16 Fernando had brought Jose -- excuse me, Eusevio Huitron back into
11:43:43 17 the organization and brought him to New Mexico to train for their
11:43:47 18 horses. Huitron broke his leg from a work accident and was taken
11:43:54 19 to the hospital and the bill was provided. The bill mentioned
11:43:57 20 that it would be private pay, and Fernando had the bill and he
11:44:00 21 e-mailed the bill to "Yo Yo" in Mexico.

11:44:04 22 Q. Now, you mentioned briefly the 51,000 transfer, Government's
11:44:09 23 Exhibit 358D. Did you interview Mr. Canales?

11:44:12 24 A. I did.

11:44:13 25 Q. And what did Mr. Canales say how he was -- that payment was

11:44:17 1 arranged for?

11:44:18 2 A. He said he was instructed by Carlos Nayan to send the money
11:44:24 3 to Heritage Place and that he was told to give proof to Fernando
11:44:29 4 Garcia, and that's why he e-mailed Fernando the deposit receipts.

11:44:34 5 Q. Now, turning your attention back to the AQHA records,
11:44:37 6 Exhibit 226. With respect to the transfer of the 35 mares, what
11:44:43 7 information came from those AQHA records to indicate Fernando
11:44:46 8 Garcia was exercising control over those horses?

11:44:49 9 A. Sure. Those 35 mares were all placed in Luis Aguirre's name
11:44:54 10 and sold to Jose Trevino for a written -- a check was written, it
11:44:58 11 was never negotiated. Anyway, those horses, in theory, had
11:45:01 12 nothing to do with Fernando Garcia, and he took the 35 transfer
11:45:06 13 requests to the American Quarter Horse Association in Amarillo,
11:45:10 14 Texas.

11:45:11 15 Q. Turning your attention to Government's Exhibit 358E, which
11:45:14 16 is the e-mail address from horses.quarter.racing, as testified by
11:45:20 17 Bill Johnson with respect to destroying the phones. Could you
11:45:23 18 indicate that aspect in relation to his leadership
11:45:27 19 responsibilities?

11:45:28 20 A. Sure. It was after the raid in Los Alamitos racetrack in
11:45:32 21 California, there was multiple e-mails between "Yo Yo" in Mexico
11:45:35 22 to Fernando Garcia, you know, what's going on, fill us in, tell
11:45:40 23 us what's happening. And eventually, there was an e-mail to
11:45:44 24 Fernando saying, destroy all your devices, all your phones, and
11:45:49 25 basically get rid of -- you know, we're scared, we're worried,

11:45:53 1 destroy everything.

11:45:55 2 Q. Now, with respect to contact in Mexico, was there an
11:45:59 3 occasion when Tyler Graham mentioned that Carlos Nayan had visa
11:46:03 4 problems and Fernando Garcia assumed his role?

11:46:06 5 A. That's correct. There was a time when we didn't see Carlos
11:46:10 6 in the United States for approximately ten, eleven months, and at
11:46:14 7 that time, Fernando oversaw everything in the United States.

11:46:16 8 Q. With respect to the objections, Special Agent, that's all I
11:46:21 9 have. I just want to turn your attention briefly to the asset
11:46:24 10 forfeiture section. Handing you a copy of the superseding
11:46:33 11 indictment.

11:46:34 12 Now, you testified earlier that when you added the
11:46:37 13 information for Mr. Hinojosa to the information from the CS and
11:46:43 14 "Pitufo," you came up with \$80 million, correct?

11:46:45 15 A. That's correct.

11:46:45 16 Q. And just so I'm clear, when did "Pitufo" state the \$50
11:46:50 17 million was delivered to Colorado-Cessa?

11:46:51 18 A. Between 2008, 2009.

11:46:53 19 Q. During the timeframe of this conspiracy?

11:46:54 20 A. Yes, sir.

11:46:57 21 Q. Now, I want to refer your attention for the asset forfeiture
11:47:00 22 portion to page 45 and 46.

11:47:02 23 THE COURT: Let's go over that one more time.

11:47:04 24 MR. GARDNER: Yes, sir.

11:47:07 25 THE COURT: Read me back -- despite your hayfever, read

11:47:11 1 me back the last question and answer, please.

11:47:42 2 (Last question and answer read back.)

11:47:43 3 THE COURT: All right. You may proceed.

11:47:44 4 MR. GARDNER: Thank you, your Honor.

11:47:52 5 Q. (BY MR. GARDNER) You have the superseding indictment in
11:47:54 6 front of you?

11:47:54 7 A. I do.

11:47:55 8 Q. With respect to the real property listed on pages 45 and 46,
11:48:01 9 did you become familiar with that property?

11:48:02 10 A. Yes, sir, I did.

11:48:03 11 Q. And how so?

11:48:05 12 A. Well, we were originally provided intelligence that Jose
11:48:09 13 Trevino had bought this property, so we did a few surveillances,
11:48:11 14 overhead photos. But the most familiar I became is the date of
11:48:15 15 arrest when we led this search and seizure and arrest at Jose
11:48:18 16 Trevino's property.

11:48:19 17 Q. Okay. Did you determine that these two properties through
11:48:22 18 your investigation were purchased by Jose Trevino?

11:48:25 19 A. That's correct.

11:48:26 20 Q. For what purpose?

11:48:27 21 A. To further his horse-breeding, money-laundering operation.

11:48:32 22 Q. All right. Just because there's actually three addresses
11:48:39 23 associated with that property, correct?

11:48:40 24 A. That's correct.

11:48:41 25 Q. And one is just a small little shack or portion. But just

11:48:45 1 for the record, the three properties are located 17840 84th
11:48:51 2 Street, Lexington, Cleveland County, Oklahoma is paragraph 1;
11:48:55 3 paragraph 2, 17850 84th Street, Lexington, Cleveland County,
11:49:02 4 Oklahoma; paragraph 3, 17860 84th Street, Lexington, Cleveland
11:49:06 5 County, Oklahoma. And even though they're separate physical
11:49:09 6 addresses, did they encompass a single piece of property?

11:49:13 7 A. That's correct.

11:49:16 8 Q. And based on the course of your investigation, were these --

11:49:19 9 THE COURT: Does that include the second ranch that --
11:49:25 10 he was buying at the time of all of this broke that the gentleman
11:49:31 11 never got back?

11:49:32 12 MR. GARDNER: Yes, sir. That includes two ranches, the
11:49:34 13 Bill Pilgrim parcel and the other previously purchased parcel
11:49:39 14 totalling about 168.

11:49:40 15 Q. (BY MR. GARDNER) Would that be --

11:49:40 16 A. Yes, sir. The Pilgrim parcel, there was still some money to
11:49:43 17 be paid, but he had paid approximately \$400,000.

11:49:49 18 Q. (BY MR. GARDNER) And just for the record, your Honor, that's
11:49:51 19 Exhibit No. 32 for the Bill Pilgrim purchase contract.

11:49:56 20 THE COURT: All right.

11:49:57 21 Q. (BY MR. GARDNER) Based on the course of your investigation,
11:49:59 22 were these properties used to facilitate and further the
11:50:01 23 money-laundering conspiracy?

11:50:01 24 A. That correct.

11:50:02 25 Q. And could you just briefly give the Court examples of how

11:50:05 1 these properties were used in furtherance of that?

11:50:08 2 A. Yes, sir. They just had several barns for breeding stud
11:50:13 3 horses to recipient mares or to the quality mares, and then,
11:50:18 4 there was several boarding facilities for the recipient mares to
11:50:22 5 carry the foals to term. There was all kinds of tractors and
11:50:28 6 things to maintain the property, to spread feed, and to do the
11:50:33 7 daily tours around the property.

11:50:35 8 Q. And ultimately at the point where you received a search
11:50:40 9 warrant, how many horses, organizational horses did you seize
11:50:43 10 from those properties?

11:50:48 11 A. It was over 400 just in Lexington.

11:50:51 12 Q. Okay. So the vast majority of the 484 have currently been
11:50:56 13 sold?

11:50:56 14 A. That's correct.

11:50:56 15 Q. Now, turning your attention to the farm and ranch equipment
11:50:59 16 located on pages 23 and 24, you briefly testified to it, but with
11:51:06 17 respect to how they're listed there, where did that information
11:51:10 18 come from?

11:51:10 19 A. On the day of the arrest, we did an inventory of all
11:51:14 20 property located on the premises.

11:51:17 21 Q. Okay. So this list here on pages 23 and 24 is an inventory
11:51:20 22 of the property as you found it on June 12, 2012?

11:51:24 23 A. That's correct.

11:51:26 24 Q. And, again, although you mentioned it, just so I'm sure I'm
11:51:29 25 clear on the record for this particular portion of the

11:51:32 1 proceeding, how were those vehicles and equipment used in the
11:51:35 2 facilitation and furtherance of the money-laundering conspiracy?

11:51:38 3 A. They're used to further the care of the horses and, you
11:51:42 4 know, to further the conspiracy.

11:51:45 5 Q. Turning your attention to the currency seized from Mr.
11:51:49 6 Eusevio Huitron's residence located on page 22, currency in the
11:51:54 7 amount of \$12,758, was that seized from Eusevio Huitron's
11:52:00 8 residence?

11:52:01 9 A. From the residence, yes, sir.

11:52:02 10 Q. Can you describe the circumstances of that seizure?

11:52:04 11 A. The consent search began after the arrest of Eusevio, and he
11:52:11 12 granted consent to the search of his residence. Inside the room
11:52:15 13 of his son Adrian Huitron, in a dresser there was found various
11:52:20 14 bundles of cash, including approximately 1,500 in a wallet that
11:52:25 15 totalled approximately \$12,000.

11:52:27 16 Q. And why is it your belief that that money came from the
11:52:30 17 money-laundering conspiracy?

11:52:32 18 A. When Adrian was asked where the money came from, he
11:52:36 19 explained that it was from the monthly fees of boarding horses.

11:52:41 20 Q. And at that time, was Eusevio Huitron boarding and training
11:52:47 21 horses belonging to the organization?

11:52:48 22 A. That's correct.

11:52:48 23 Q. I'll pass the witness, your Honor.

11:52:56 24 MR. LECHTENBERGER: May I have 45 seconds with my
11:52:58 25 client, Judge?

11:52:59 1 THE COURT: Yes.

11:53:11 2 MR. LECHTENBERGER: That was under 45 seconds. No
11:53:14 3 questions, Agent.

11:53:16 4 THE COURT: I anticipate more than 45 seconds of cross?

11:53:21 5 MR. SANCHEZ: A little bit more, your Honor.

11:53:22 6 THE COURT: All right. Well, we can't --

11:53:27 7 MR. SANCHEZ: Did you say we --

11:53:29 8 THE COURT: We can't exhaust the court reporter. It
11:53:31 9 looks like we're going to go on. You may step down, sir. So
11:53:35 10 we'll recess till 1:30. Let me try to get a handle on some
11:53:40 11 things. We've got one more witness.

11:53:43 12 MR. GARDNER: He will only address --

11:53:45 13 THE COURT: Well, I don't -- he'll be what he is.

11:53:49 14 MR. GARDNER: Yes.

11:53:50 15 THE COURT: So I'm not concerned about that. So we've
11:53:54 16 got one other. We've got -- what I'm really trying to figure out
11:54:03 17 as to whether we're going to reach Mr. Ramirez or not, Mr.
11:54:08 18 Harris, I don't know.

11:54:12 19 MR. HARRIS: I hope so.

11:54:12 20 THE COURT: If you have a tent where you could sleep in
11:54:14 21 our beautiful outdoors, don't give it away. All right. Recess
11:54:19 22 till 1:30.

13:27:03 23 (Lunch recess.)

13:27:11 24 THE COURT: You're still under oath.

13:27:13 25 THE WITNESS: Yes, your Honor.

CROSS-EXAMINATION

BY MR. SANCHEZ:

Q. Thank you, your Honor.

Mr. Lawson, I want to talk to you about a couple of things. I want to start by, first, were you referring to this CI, CI-1? I just want to get a -- something I can refer to. The one that gave information about the 12 million and broken up into two, two million and 10 million, was that CI-1?

A. That's correct.

Q. Okay. So I want to ask you about CI-1 first. And I guess what you were saying is CI-1 is the one that told you that the roughly 10 million listed in the PSR that Francisco Colorado paid, that's -- it's paid back and the information that you're relying on is CI-1?

A. That's part of the information. Yes, sir.

Q. So CI-1, I want to ask you, is he cooperating with the government because he's, in fact, in custody?

A. He is in custody.

Q. Okay. And so, is he in custody because he has a federal case?

A. Yes.

Q. More than one federal case?

MR. GARDNER: Your Honor, at this point, I would object to any further description that might serve to identify the identity of this individual. I think we're getting a little

13:28:55 1 close to that line.

13:28:56 2 MR. SANCHEZ: I'm --

13:28:58 3 THE COURT: Does it make any difference if he's got 30
13:29:01 4 cases or one?

13:29:03 5 MR. SANCHEZ: Well.

13:29:05 6 THE COURT: Let's go.

13:29:06 7 MR. SANCHEZ: I want to know how many -- I want to be
13:29:08 8 able to impeach him, and it does make a difference if he's trying
13:29:11 9 to give information in order to reduce his sentence. I do think
13:29:16 10 that's relevant.

13:29:18 11 THE COURT: Then ask him that. It doesn't make any
13:29:20 12 difference if it's one or ten. If it's --

13:29:23 13 MR. SANCHEZ: I'd also like to ask what kind of
13:29:26 14 sentence he's facing, what his range is, in order to try to judge
13:29:28 15 his credibility as far as the information that he's giving,
13:29:32 16 whether -- what's he looking at. If he's looking at --

13:29:34 17 THE COURT: Do you have a crystal ball to look at
13:29:38 18 whatever the Judge is going to do one way or the other?

13:29:41 19 MR. SANCHEZ: Your Honor, when it comes to the record,
13:29:42 20 I think it's important because a person that's facing a two-year
13:29:46 21 sentence versus a person that's facing a 50-year sentence has
13:29:50 22 more incentive to make things up and that's the --

13:29:54 23 THE COURT: That's all right. I never have met a CI
13:29:56 24 with a two-year sentence. So let's go on. Maybe we will learn
13:29:59 25 something.

13:30:00 1 Q. (BY MR. SANCHEZ) Do you know whether the CI has been
13:30:03 2 sentenced?

13:30:04 3 A. He has not.

13:30:05 4 Q. Do you know what kind of range of punishment he's facing?

13:30:10 5 A. I haven't seen the PSI, but I understand that it's
13:30:14 6 substantial.

13:30:15 7 Q. What do you mean by substantial?

13:30:19 8 A. I believe ten to life comes to mind.

13:30:24 9 Q. Ten to life is what the statutory range is, or is that what
13:30:29 10 the guideline range is?

13:30:32 11 THE COURT: If he hadn't seen the PSI, I don't know if
13:30:35 12 he can answer that question. If he has seen the PSI, you'd
13:30:38 13 better have the judge's permission to have seen the PSI.

13:30:43 14 Q. (BY MR. SANCHEZ) Do you know what the government is offering
13:30:47 15 him in exchange for the information that he's providing?

13:30:54 16 A. I know they have made a statement that they will let the
13:30:58 17 judge know of his cooperation.

13:31:00 18 Q. Have they recommended a certain reduction to his sentence?

13:31:08 19 A. I don't think I've heard legal terms of, you know, what
13:31:11 20 rule, or anything, they're going to try to use toward the
13:31:16 21 defendant.

13:31:16 22 Q. So you don't know whether the government's recommending some
13:31:20 23 sort of reduction to his sentence?

13:31:22 24 A. I understand there's going to be some form of
13:31:24 25 recommendation.

13:31:26 1 Q. What's your understanding? Is it a percentage of what is
13:31:29 2 calculated by the guidelines, or is it a certain number of years
13:31:33 3 off?

13:31:34 4 A. I do not have an understanding because the best I
13:31:38 5 understand, we're still waiting on what information is going to
13:31:41 6 be used, if it's going to help any other cases, that type of
13:31:43 7 thing.

13:31:49 8 Q. How many times have you sat down and met with this
13:31:53 9 particular individual?

13:31:56 10 A. Probably eight.

13:31:59 11 Q. And those eight times, were reports written about that
13:32:02 12 meeting?

13:32:04 13 A. Yes.

13:32:10 14 Q. When was the first time -- and I'm not talking about a date.
13:32:15 15 Just in relation to those eight meetings, when was the first time
13:32:18 16 he provided this information about this alleged \$12 million
13:32:22 17 payment?

13:32:28 18 A. I'd be guessing a little. I'm going to say the third time.

13:32:31 19 Q. So he did not provide it the first or the second time?

13:32:37 20 A. No. As I said in the trial, my general rule in debriefing
13:32:42 21 any defendant is to be very generic the first time or two and get
13:32:45 22 a broad picture, and then, you come back for specific details.

13:32:49 23 Q. Other than those eight times that you sat in, how many other
13:32:52 24 times has he sat in either before or after your meetings?

13:32:57 25 A. With other interviewers?

13:33:00 1 Q. With other interviewers.

13:33:01 2 A. I know of one. At the most, two. I think just one without
13:33:08 3 me.

13:33:10 4 Q. Has he provided other information about Francisco Colorado
13:33:14 5 in those nine to ten interviews?

13:33:17 6 A. Yes.

13:33:19 7 MR. SANCHEZ: Your Honor, at this time, we'd ask to
13:33:20 8 have copies, whether they're redacted or not, of those interviews
13:33:24 9 to be able to further impeach this faceless person's credibility.
13:33:28 10 And also, to see if there's any favorable information that he's
13:33:31 11 giving about our client. If this gentleman's going to be taking
13:33:37 12 the bad things that he said about our client and leaving out some
13:33:40 13 of the better things, then that's obviously a problem for us. So
13:33:44 14 we'd ask for a redacted copy of these reports of his interviews.

13:33:51 15 MR. GARDNER: Your Honor, I have the reports right
13:33:54 16 here. I would offer them to the Court in camera to determine
13:33:56 17 whether Mr. Scott Lawson, who authored some of the reports, is
13:34:01 18 not testifying as truthfully to those reports.

13:34:03 19 THE COURT: Let's mark that.

13:34:06 20 MR. SANCHEZ: And, your Honor, if I can respond to
13:34:09 21 that.

13:34:09 22 THE COURT: Well, let's -- you, of course, can respond.

13:34:14 23 MR. SANCHEZ: What I'm afraid of is if the Court then
13:34:17 24 has information about our client that's in those reports and we
13:34:20 25 don't have access to it and we're never given an opportunity to

13:34:23 1 rebut them, then that's a problem for us, as well. So I would
13:34:30 2 object to --

13:34:31 3 THE COURT: Like the government does not have an
13:34:33 4 opportunity to rebut the records that were made all by your
13:34:38 5 client's company because it's in Mexico?

13:34:41 6 MR. SANCHEZ: Your Honor, those records were provided
13:34:44 7 in April of this year. They've had --

13:34:47 8 THE COURT: I'm just illustrating exactly the problem
13:34:51 9 that's in this case, illustrated throughout this record. I'll
13:34:56 10 take that now. Counsel makes a good point with regard to the
13:35:23 11 fact that I've already disclosed on the record or will disclose
13:35:29 12 on the record exactly what I had reviewed in preparation for the
13:35:35 13 sentencings that hopefully will take place in this century, and
13:35:51 14 it will not be any of these. It will take quite a bit of time
13:36:08 15 for you to review that, that material.

13:36:20 16 Put a rubber band on it and let's call it --

13:36:24 17 MR. GARDNER: Your Honor, if that's going to be the
13:36:25 18 case, I would request the Court not to take into any
13:36:29 19 consideration the information provided by CS-1 in terms of
13:36:32 20 sentencing. Rather than have this procedural aid or to disclose
13:36:37 21 either redacted portions of the reports that may identify the
13:36:42 22 confidential source, we'll withdraw any of that testimony and ask
13:36:45 23 the Court not to consider that information.

13:36:50 24 MR. SANCHEZ: I'm okay with that, your Honor.

13:36:52 25 THE COURT: Okay. Well, I wasn't going to pay any

13:36:55 1 attention to it, anyway, so it was a draw.

13:37:00 2 All right. But still -- well, if we're withdrawing it,
13:37:05 3 then I'll allow you to withdraw the unnumbered exhibit at this
13:37:13 4 time because this case has plenty of exhibits.

13:37:15 5 MR. SANCHEZ: And, your Honor, I'm going to go into the
13:37:18 6 next source of information, but can we approach briefly instead
13:37:23 7 of putting -- I want to put something on the record, not in open
13:37:26 8 court.

13:37:28 9 (At the bench, on the record.)

13:37:36 10 MR. SANCHEZ: The next source of information is
13:37:41 11 "Pitufo," and it was one of the possible witnesses at trial. We
13:37:49 12 know his name but I want to -- and I cleared it with Doug that
13:37:54 13 we're talking about the same person. So before I ask this --

13:37:59 14 THE COURT: I won't know.

13:38:03 15 MR. DEGEURIN: That's right.

13:38:03 16 MR. SANCHEZ: Right. So I don't know how you want to
13:38:05 17 handle it. Whether we'll just stipulate that "Pitufo" is, in
13:38:08 18 fact, a person named Salvador Puga-Quintanilla or if you wanted
13:38:13 19 me to ask the agent that.

13:38:16 20 MR. GARDNER: I'll stipulate to that, your Honor.

13:38:17 21 THE COURT: Okay. Tell me, again, the name. You
13:38:20 22 referred to him as "Pitufo" so the record is clear.

13:38:23 23 MR. SANCHEZ: Okay.

13:38:24 24 THE COURT: Salvador what?

13:38:25 25 MR. SANCHEZ: Salvador Puga. And Puga is P-U-G-A.

13:38:29 1 Quintanilla, Q-U-I-N-T-A-N-I -- I'm going to give up at that --

13:38:37 2 MR. GARDNER: Your Honor, just as part of that, we
13:38:38 3 would ask the Court to seal that portion of the transcript.

13:38:40 4 THE COURT: Yeah. This part of the transcript will be
13:38:43 5 sealed and it's a closed conversation, and the court reporter's
13:38:49 6 listening to it right now so.

13:38:51 7 MR. GARDNER: Your Honor, as part of Special Agent
13:38:55 8 Lawson's preparation for "Pitufo," I'll represent to the Court he
13:38:59 9 has reviewed no reports prepared by any other agents with respect
13:39:03 10 to Mr. "Pitufo." He has prepared the reports with respect to his
13:39:07 11 interview by "Pitufo."

13:39:09 12 THE COURT: At any time?

13:39:10 13 MR. GARDNER: At any time. The only information came
13:39:12 14 from when Mr. "Pitufo" was up in our offices, during the course
13:39:15 15 of the trial, when we talked to him in anticipation of using him
13:39:18 16 as a witness. So we have no written reports or written notes by
13:39:21 17 that agent or any other agent with regards to those interviews on
13:39:25 18 the occasion during the course of the trial.

13:39:28 19 MR. SANCHEZ: I assumed that, anyway, and so, I wasn't
13:39:31 20 going to ask those questions.

13:39:35 21 MR. ESPER: Judge, what I want to ask is, is that CI-1
13:39:38 22 the same -- is represented by the same lawyer that represented
13:39:39 23 the other?

13:39:41 24 MR. GARDNER: Sure. I'll make that representation that
13:39:42 25 he's not.

13:39:43 1 MR. ESPER: That he is?

13:39:44 2 MR. GARDNER: He's not.

13:39:45 3 MR. ESPER: Oh, okay.

13:39:45 4 THE COURT: But you can ask.

13:39:47 5 MR. ESPER: Thought I'd get it out. Thought I'd flush
13:39:49 6 it out now.

13:40:06 7 THE COURT: You may proceed.

13:40:08 8 Q. (BY MR. SANCHEZ) I want to ask you some questions now about
13:40:10 9 the source of information that you labeled as "Pitufo."

13:40:12 10 A. Sure.

13:40:13 11 Q. And "Pitufo," he's a Mexican citizen?

13:40:17 12 A. He is.

13:40:18 13 Q. He was actually here in Austin getting ready to testify back
13:40:23 14 in April or May of this year in this case?

13:40:25 15 A. That's correct.

13:40:27 16 Q. That was a decision the government made not to put him on as
13:40:30 17 a witness during the trial?

13:40:31 18 A. That's correct.

13:40:32 19 Q. But "Pitufo" has actually been cooperating down in Mexico
13:40:37 20 for some length of time?

13:40:38 21 A. That's correct.

13:40:39 22 Q. And "Pitufo," you're aware of he was arrested first in 2007
13:40:46 23 and then, again, in 2008 down in Mexico?

13:40:49 24 A. I know he's been arrested in the past.

13:40:51 25 Q. Were you aware that he's -- since 2008, he's been working

13:40:55 1 with the Mexican Attorney General earning 5,000 a month?

13:40:59 2 A. I don't know if he has a salary or anything of that nature.

13:41:02 3 Q. Were you aware that in addition to the \$5,000 a month, he

13:41:06 4 was receiving room and board under the care of the Mexican

13:41:10 5 Attorney General?

13:41:13 6 A. I don't believe in my time with "Pitufo "that we discussed

13:41:17 7 his arrangements in Mexico.

13:41:18 8 Q. Were you aware that "Pitufo" has testified in over 83 cases

13:41:25 9 and a lot of those cases have now been reversed, and the

13:41:29 10 reversals have hinged on the lack of credibility as to "Pitufo"?

13:41:35 11 A. I'm not aware to the fact as you stated.

13:41:39 12 Q. Were you aware that in Mexico, the procedure is the first

13:41:44 13 time you give a proffer in order to have and to maintain some

13:41:48 14 sort of immunity from what you're proffering, you need to discuss

13:41:53 15 everything that you have ever done illegal?

13:41:56 16 A. I'm not aware of Mexico's proffer situation.

13:41:59 17 Q. You know that "Pitufo" first proffered -- his first proffer

13:42:02 18 where he listed everything he did was back in 2008?

13:42:05 19 A. Not aware of that.

13:42:06 20 Q. Are you aware that "Pitufo" hasn't done or claims to not

13:42:09 21 have done anything illegal since 2008?

13:42:12 22 A. I'm not aware of that.

13:42:14 23 Q. Are you aware that "Pitufo" gave a sworn declaration in

13:42:18 24 Mexico against Francisco Colorado in 2012 for the first time?

13:42:25 25 A. I'm not aware to any specific legal things he's done in

13:42:28 1 Mexico.

13:42:29 2 Q. Were you aware that in this sworn declaration, he never made
13:42:34 3 mention of this \$50 million?

13:42:36 4 A. Not aware of a sworn declaration, so I would not be aware of
13:42:40 5 anything in a sworn declaration.

13:42:44 6 Q. Were you aware that "Pitufo" has testified that he has
13:42:57 7 worked for numerous different cartels at the same time, even
13:43:01 8 though they are at war with each other?

13:43:04 9 A. I'm not aware of that.

13:43:09 10 Q. Are you aware that there's been a large scale investigation
13:43:17 11 into "Pitufo" and other similar cooperating witnesses down in
13:43:23 12 Mexico?

13:43:23 13 A. No.

13:43:32 14 Q. Are you aware where "Pitufo" claimed to have lived in?

13:43:37 15 A. I'm sorry?

13:43:37 16 Q. Are you -- do you know where he says he lived?

13:43:41 17 A. Like any time in the past or?

13:43:44 18 Q. During the year of 2008 when he -- or 2009, when he claims
13:43:48 19 to have been part of the \$50 million payment?

13:43:52 20 A. I do remember him discussing different areas of Mexico he
13:43:56 21 was responsible for at different times but not specifically, no.

13:44:00 22 Q. Do you know what he was arrested for, what he was charged
13:44:04 23 and convicted of? If I say possession of a gun and aggravated
13:44:12 24 kidnapping, would that ring a bell?

13:44:14 25 A. I remember something about a gun, not the kidnapping.

13:44:18 1 Q. Do you know that he actually testified and admitted that he
13:44:21 2 was a gang -- in a gang, a leader of a gang that committed
13:44:26 3 aggravated kidnappings in Mexico City?

13:44:31 4 A. From what I recall, "Pitufo" said that he was comfortable
13:44:34 5 doing what he did because he did not participate in kidnappings.

13:44:39 6 Q. Are you aware that he testified to the opposite of that?

13:44:42 7 A. No. I'm not aware of any particular of "Pitufo's"
13:44:52 8 testimony.

13:45:16 9 MR. SANCHEZ: Your Honor, at this point I would pass
13:45:18 10 the witness. But one thing that I want to point out to the Court
13:45:20 11 is that we were not aware through the process of objections and
13:45:26 12 responses and replies to those objections to the PSR that any
13:45:30 13 information about "Pitufo" would come in at the sentencing. And
13:45:34 14 the reason why I'm pointing that out is that had we known that,
13:45:37 15 we would have been prepared to introduce more evidence about
13:45:42 16 "Pitufo," as opposed to simply asking, "did you know" or "are you
13:45:45 17 aware" questions.

13:45:47 18 I'm not sure how the Court is going to handle any of
13:45:50 19 this information.

13:45:54 20 THE COURT: Of course, the reason that you didn't get
13:46:00 21 that information is just the way things go, and that is probation
13:46:04 22 officer prepares the presentence investigation, the parties
13:46:10 23 object to it, the parties respond. It's not unusual at all for
13:46:14 24 people to be called as a witness that aren't even mentioned in
13:46:18 25 the report. But I have no idea -- you know, I don't have a

13:46:28 1 clever way to erase what I hear, but I don't even know how to
13:46:34 2 spell "Pitufo." So I don't think it's going to be of great
13:46:37 3 influence.

13:46:38 4 I'm far more concerned with the evidence I heard in
13:46:42 5 this trial. Sworn testimony by the witnesses in this trial. So
13:46:47 6 that's the best I can do to help your concern.

13:46:50 7 MR. SANCHEZ: Well, I'll pass witness, your Honor.

13:46:52 8 THE COURT: All right.

13:46:56 9 MR. SANCHEZ: Thank you, your Honor.

13:46:57 10 CROSS-EXAMINATION

13:46:57 11 BY MR. WOMACK:

13:46:59 12 Q. Special Agent Lawson?

13:46:59 13 A. Good afternoon.

13:47:00 14 Q. Going along with what his Honor just said, your sworn
13:47:03 15 testimony at the trial was that Fernando Garcia first comes into
13:47:07 16 this conspiracy in the fall of 2010, correct?

13:47:15 17 A. I don't recall if I said the fall of 2010.

13:47:18 18 Q. If we remember it that way, that is what you said, wasn't
13:47:20 19 it?

13:47:20 20 A. I'm sorry?

13:47:22 21 Q. If the Judge --

13:47:24 22 THE COURT: That may be the greatest question I've ever
13:47:26 23 heard.

13:47:28 24 MR. WOMACK: Thank you. I appreciate it, your Honor.

13:47:30 25 THE COURT: Why don't you try another one.

13:47:32 1 Q. (BY MR. WOMACK) Do you recall that you said it was around
13:47:34 2 the fall or September of 2010 that you first have Fernando Garcia
13:47:39 3 actively involved with these alleged coconspirators?

13:47:42 4 A. I can recall that was the first time I saw him on the
13:47:45 5 surveillance. But I know that I was referred to him by Tyler
13:47:48 6 Graham before I saw him on surveillance.

13:47:50 7 Q. And what you have Tyler Graham talking about is that there
13:47:56 8 were horses at Southwest Stallion Station, and that it
13:48:00 9 appeared -- it was pretty clear that Fernando Garcia was making
13:48:06 10 sure these horses were taken care of and they were paid for.
13:48:09 11 Bills were paid?

13:48:10 12 A. Yes.

13:48:11 13 Q. And you know from your investigation that there's no
13:48:13 14 evidence that Fernando Garcia was using his meager funds to pay
13:48:18 15 for the horses for Mr. Colorado-Cessa or Mr. Trevino. You know
13:48:22 16 that?

13:48:22 17 A. No. He wasn't using his funds.

13:48:25 18 Q. And from your investigation, you know that throughout this
13:48:30 19 two years or so, 2010 up to 2012 that Mr. Garcia appeared to be
13:48:35 20 actively involved with these other codefendants. He never made
13:48:39 21 over \$80,000 a year, did he?

13:48:42 22 A. I'm not sure what he was being paid.

13:48:44 23 Q. Okay. From your investigation, though, it looked like he
13:48:46 24 was getting around \$80,000 or less a year.

13:48:49 25 A. I haven't seen any numbers to what Fernando made.

13:48:53 1 Q. You've seen his tax returns.

13:48:55 2 A. I have not seen his tax returns.

13:48:56 3 Q. Okay. So during the course of what you have seen, you're
13:49:01 4 not aware that Mr. Garcia was only making -- I'm not saying it
13:49:06 5 was bad money, but he was making \$80,000 or less per year?

13:49:09 6 A. I'm not aware of that.

13:49:10 7 Q. Okay. You have not seen where he's been given any
13:49:13 8 exorbitant fees by Mr. Colorado-Cessa?

13:49:17 9 A. No. I haven't seen.

13:49:19 10 Q. Or where he was given any exorbitant amount of money from
13:49:22 11 any person, correct?

13:49:23 12 A. I've seen him flying on Cessa's jets and on his boats in
13:49:27 13 Mexico.

13:49:27 14 Q. You don't know anything about him being on a boat in Mexico,
13:49:30 15 do you?

13:49:30 16 A. I do.

13:49:31 17 Q. That's never come up at trial.

13:49:32 18 A. I didn't say it came up at trial. I said I knew that.

13:49:34 19 Q. You didn't just forget to tell the jury that, did you?

13:49:39 20 A. No. There's a lot there --

13:49:44 21 THE COURT: You let him ask the questions, but you can
13:49:47 22 answer them.

13:49:48 23 THE WITNESS: Yes, sir.

13:49:49 24 Q. (BY MR. WOMACK) And we did have pictures, I believe, of Mr.
13:49:52 25 Garcia once getting on this private plane, someone's private

13:49:56 1 plane flying around America. Do you recall that?

13:49:58 2 A. What's the question?

13:49:59 3 Q. You did see at trial there was a photograph of Mr. Garcia --

13:50:02 4 A. I did.

13:50:02 5 Q. -- getting on a private plane that was flying within the

13:50:04 6 United States?

13:50:04 7 A. Yes.

13:50:05 8 Q. Okay. And you testified with regards to Mr. Huitron, you

13:50:18 9 were asked about Fernando Garcia having a leadership role?

13:50:21 10 A. Yes.

13:50:21 11 Q. And you said that you thought it was a leadership role

13:50:24 12 because you said, in your words, he brought back Mr. Huitron to

13:50:28 13 work for some of these men, correct?

13:50:30 14 A. That was a piece of why I said he had a leadership role.

13:50:33 15 Q. And when you say brought back, you don't mean that he went

13:50:36 16 out and actively recruited Mr. Huitron or cajoled him to come

13:50:40 17 back and work for anyone, did you? You don't mean that, do you?

13:50:43 18 A. I believe he invited him and -- Carlos Nayan invited Huitron

13:50:47 19 to come into New Mexico.

13:50:48 20 Q. But you have no evidence of Mr. -- of Fernando Garcia doing

13:50:52 21 that, do you?

13:50:55 22 A. I believe there's a call where he tells Tyler that we have

13:50:59 23 Huitron in New Mexico.

13:51:02 24 Q. So you have a call, you think, where Fernando Garcia tells

13:51:07 25 Tyler Graham at Southwest Station, we think Mr. Huitron is going

13:51:10 1 to be training a horse?

13:51:11 2 A. Be training horses in New Mexico.

13:51:14 3 Q. Okay. And, of course, you know from your investigation as
13:51:16 4 it came out at trial, Mr. Huitron is a highly regarded trainer
13:51:20 5 that people would want to have training their horses.

13:51:23 6 A. Before this case, I didn't see anybody outside of Texas use
13:51:26 7 Huitron.

13:51:28 8 Q. But he was still highly regarded within Texas?

13:51:30 9 A. He was pretty decently regarded in Texas.

13:51:33 10 Q. Okay. And so, what you have is Fernando Garcia talking to
13:51:40 11 Tyler Graham saying, hey, Mr. Huitron is going to be training
13:51:43 12 some horses, correct?

13:51:44 13 A. Our horses.

13:51:46 14 Q. You had no evidence of Fernando Garcia telling Mr. Huitron
13:51:51 15 how to train horses, do you?

13:51:53 16 A. No.

13:51:54 17 Q. You don't have any evidence of Fernando Garcia ordering
13:51:59 18 anyone to do anything, do you, as far as directing how they
13:52:03 19 operate?

13:52:11 20 A. Not necessarily ordering.

13:52:25 21 Q. Sir, no further questions. Thank you.

13:52:28 22 THE COURT: Mr. Esper.

13:52:30 23 CROSS-EXAMINATION

13:52:30 24 BY MR. ESPER:

13:52:32 25 Q. Just a couple of questions, Agent.

13:52:34 1 You said you suggested that when Mr. Huitron went to
13:52:38 2 New Mexico, he had been invited or drawn back into training
13:52:45 3 horses, correct?

13:52:46 4 A. That's correct.

13:52:46 5 Q. And your investigation revealed that he obviously had been
13:52:50 6 terminated by this group prior to that time?

13:52:53 7 A. Yeah. They would use a trainer, get tired of him, go
13:52:57 8 somewhere and then, come back.

13:52:58 9 Q. Vacillate back and forth?

13:53:03 10 A. Yes.

13:53:03 11 Q. Okay. That's all I have.

13:53:06 12 THE COURT: Any redirect?

13:53:07 13 MR. GARDNER: Redirect, your Honor, briefly.

13:53:09 14 RE-DIRECT EXAMINATION

13:53:09 15 BY MR. GARDNER:

13:53:11 16 Q. Special Agent Lawson, with respect to the information by
13:53:13 17 "Pitufo" and Hinojosa, that's \$68 million absent the information
13:53:18 18 on the CS we're asking the Court not to consider, correct?

13:53:22 19 A. That's correct.

13:53:22 20 Q. All right. That information is not being supplied to the
13:53:27 21 probation office for the \$10 million loss calculation
13:53:30 22 attributable to Colorado-Cessa?

13:53:32 23 A. That's correct.

13:53:33 24 Q. That is based on the records introduced at trial?

13:53:35 25 A. That's correct.

13:53:36 1 Q. I guess the point is, is the information that "Pitufo"
13:53:40 2 supplied, does that corroborate all the information adduced at
13:53:43 3 trial from other witnesses?

13:53:43 4 A. Yes.

13:53:44 5 Q. Did it confirm your investigation?

13:53:45 6 A. Yes.

13:53:47 7 Q. I forgot a couple of things on the asset forfeiture portion.
13:53:53 8 So if I could ask you to look at your superseding indictment
13:53:55 9 again for me, please.

13:53:57 10 A. Sure.

13:53:57 11 Q. With respects to the pages 21 and 22, the business and bank
13:54:03 12 accounts, were those analyzed as part of the money-laundering
13:54:06 13 investigation?

13:54:06 14 A. They were.

13:54:07 15 Q. And could you just generally describe those accounts? And I
13:54:13 16 apologize. The financial accounts listed from paragraph eight,
13:54:17 17 nine, 10, 11 and 12.

13:54:21 18 A. Paragraph eight through 12 are accounts owned by Jose
13:54:25 19 Trevino or in the name of one of his shell companies.

13:54:28 20 Q. Okay. And were those accounts used as part of this
13:54:33 21 money-laundering conspiracy to facilitate and further the actual
13:54:35 22 conspiracy itself?

13:54:36 23 A. They were.

13:54:37 24 Q. Just for the court record, those accounts were introduced at
13:54:41 25 trial, subpoenaed bank records 250A, B, C and D; correct?

13:54:46 1 A. Correct.

13:54:46 2 Q. Now, looking at page 21 of the superseding indictment, Count
13:54:51 3 No. 1, was that also analyzed as part of this investigation?

13:54:54 4 A. It was.

13:54:55 5 Q. And, again, it was pretty obvious it's a Francisco
13:55:00 6 Colorado-Cessa account, correct?

13:55:01 7 A. Yes, sir.

13:55:01 8 Q. In the amount of \$648?

13:55:03 9 A. Yes.

13:55:04 10 Q. Was that account also analyzed and determined to be part of
13:55:08 11 the facilitation or furtherance of the money-laundering
13:55:10 12 conspiracy?

13:55:11 13 A. Yes, sir. The check for \$2.2 million came out of that
13:55:14 14 account.

13:55:15 15 Q. And finally, based on the investigation, what other agents
13:55:19 16 have relayed to you on the financial information, did you
13:55:23 17 determine or agents determine that the source of the funds used
13:55:26 18 to buy the two farms in Lexington, Oklahoma were the source of
13:55:31 19 either drug proceeds or extorted funds?

13:55:33 20 A. Yes, sir. We traced the money that Alfonso Del Rayo sent
13:55:39 21 through Tyler Graham to Jose Trevino was used to purchase the
13:55:41 22 first ranch. And the November 11 sale at Heritage Place where
13:55:45 23 Jose watched four horses through the sale and was used to
13:55:49 24 purchase the second half of the ranch.

13:55:50 25 Q. And so, the question with respect to the ranch, had Jose

13:55:53 1 Trevino not received the extorted funds from Alfonso Del Rayo,
13:55:57 2 would he have been able to purchase that ranch?

13:55:59 3 A. No.

13:55:59 4 Q. And had Jose Trevino not sold his own horses at auction for
13:56:03 5 inflated prices, would he have been able to purchase the second
13:56:06 6 portion of that ranch?

13:56:07 7 A. No.

13:56:07 8 Q. May I have one moment, your Honor?

13:56:09 9 THE COURT: Yes, sir.

13:56:30 10 MR. GARDNER: That's all I have, your Honor.

13:56:33 11 THE COURT: Any further questions from defense counsel?
13:56:37 12 You may step down, sir.

13:56:39 13 THE WITNESS: Thank you.

13:56:42 14 MR. GARDNER: No further witnesses, your Honor.

13:56:44 15 THE COURT: Any rebuttal witnesses?

13:56:47 16 MR. SANCHEZ: No, your Honor.

13:56:48 17 MR. LECHTENBERGER: None, your Honor.

13:56:50 18 MR. SANCHEZ: Your Honor, I mentioned this when Mr.
13:56:52 19 Segura was going to -- or did testify and I don't think I
13:56:55 20 actually did it. The updated Exhibit C, I gave a copy to the
13:57:00 21 government. I just want to provide it for the Court.

13:57:04 22 THE COURT: Now, he had two volumes. You've got it
13:57:08 23 combined to one for me? Thank you.

13:57:11 24 MR. SANCHEZ: Yeah. The second volume was never
13:57:13 25 addressed during direct and cross. So it was actually not

13:57:16 1 something that --

13:57:18 2 THE COURT: So let's do the Defendant Colorado-Cessa
13:57:23 3 Sentencing Exhibit 1.

13:57:30 4 MR. SANCHEZ: So it's clear, this is -- I know it won't
13:57:33 5 replace it in the record, but, in other words, this is just
13:57:35 6 updates to Exhibit C that's already in the record, attached to
13:57:38 7 our original objection.

13:57:40 8 THE COURT: Were your original objections filed? My
13:57:44 9 copy is not. You might want to check that.

13:57:50 10 MR. SANCHEZ: I'll check it.

13:57:52 11 THE COURT: The other stuff I got from y'all were --
13:57:55 12 always was filed. But I didn't see a file mark on the one. It
13:57:58 13 may have come directly from you as a courtesy copy and,
13:58:03 14 therefore, did go past the clerk's office.

13:58:05 15 MR. SANCHEZ: What happened was we e-mailed what we
13:58:07 16 could to the probation office, and then, we sent originals --
13:58:11 17 they're much greater volume to the probation, government and the
13:58:14 18 Court to have original copies. But we will file that after this
13:58:18 19 or make sure that it was filed.

13:58:20 20 MR. DEGEURIN: That was my decision at the time, Judge,
13:58:23 21 and I may have -- I always give it to the probation officer, not
13:58:26 22 to the Court.

13:58:27 23 THE COURT: Well, that's the way it's normally done.
13:58:29 24 But when he said it's on record, I wanted to make sure. Just
13:58:32 25 check on it, if it is, file it. And if you need to file it under

13:58:37 1 seal, make appropriate application for it.

13:58:39 2 MR. SANCHEZ: Yes, your Honor.

13:58:42 3 THE COURT: All right. Any further evidence by anybody
13:58:45 4 with regard to the objections to the presentence investigation
13:58:50 5 regarding the guideline calculation?

13:58:53 6 MR. GARDNER: Nothing from the government, your Honor.

13:58:54 7 THE COURT: All right.

13:58:56 8 MR. WOMACK: No, your Honor.

13:58:57 9 MR. ESPER: No, your Honor.

13:58:58 10 MR. LECHTENBERGER: None, your Honor.

13:59:02 11 THE COURT: All right. Then the Court calls Jose
13:59:05 12 Trevino-Morales.

13:59:05 13 * * *

14:49:08 14 THE COURT: Francisco Antonio Colorado-Cessa.

14:50:37 15 Mr. Colorado-Cessa, would you tell me your full name,
14:50:39 16 please, sir?

14:50:39 17 DEFENDANT COLORADO-CESSA: Francisco Antonio
14:50:48 18 Colorado-Cessa.

14:50:49 19 THE COURT: And have you had the opportunity to sit
14:50:50 20 down with your lawyers and review the presentence investigation
14:50:52 21 made in your case?

14:50:53 22 DEFENDANT COLORADO-CESSA: Yes, your Honor.

14:50:58 23 THE COURT: The probation department has determined in
14:51:00 24 your case a guideline range under the Sentencing Guidelines of
14:51:06 25 235 to 293 months.

14:51:10 1 I have no objections from the government. I have two
14:51:14 2 objections from the defense. First, that the base level is
14:51:19 3 incorrect and that the application of a role was inappropriate.
14:51:31 4 Apparently the -- no. That it should be a minor role. Excuse
14:51:37 5 me. And no minor role was given.

14:51:41 6 MR. SANCHEZ: Your Honor, there's a third objection
14:51:42 7 that's really very much tied to the first one, but the first
14:51:46 8 objection being that there's no illegal proceeds used by Mr.
14:51:52 9 Colorado; and therefore, the proceeds aren't drug proceeds.

14:51:57 10 THE COURT: I understand that. But that would be the
14:51:59 11 amount of laundered -- I understand that that's your argument,
14:52:05 12 but that's what makes the -- if you're correct, that's what makes
14:52:11 13 the probation officer's amount wrong.

14:52:15 14 MR. SANCHEZ: And just to be clear, it's actually
14:52:18 15 listed out as three objections. One's to the amount of money.
14:52:21 16 Two is to the fact of whether the proceeds are drugs or not. And
14:52:25 17 three is to the minor role. I just --

14:52:27 18 THE COURT: All right. We'll handle it that way. And
14:52:31 19 I'll be glad to listen to you at this time.

14:52:34 20 MR. SANCHEZ: Our objection -- and I'll focus on the
14:52:39 21 first objection almost entirely. But our objection is pointing
14:52:44 22 out the fact that at trial, there was no evidence or barely any
14:52:50 23 evidence to suggest that Mr. Colorado ever funneled drug
14:52:58 24 proceeds. He made payments, or he authorized payments, or there
14:53:01 25 are payments that are attributable to him through one of his

14:53:04 1 companies, and that is that \$10 million figure or the 38
14:53:09 2 transactions. We're not disputing that those payments came from
14:53:14 3 him or from his company, but under the guidelines and the case
14:53:19 4 law that digest those guidelines, that amount of money -- in
14:53:24 5 order to use that amount of money under the money-laundering
14:53:27 6 guideline, it has to be proceeds of some specified unlawful
14:53:33 7 activity.

14:53:34 8 Our position through trial and our position today at
14:53:38 9 sentencing has always been that Mr. Colorado was using his own
14:53:45 10 money, money that he earned through his company, and he was not
14:53:49 11 ever in possession of, or handled, or in charge of any specified
14:53:56 12 unlawful activities. And very specifically, for those 38
14:53:59 13 transactions, we've gone through one-by-one and introduced the
14:54:04 14 source of those payments that come from the Pemex contracts.

14:54:08 15 So when we filed our objections, we didn't have a
14:54:11 16 response from the government. When they started to put on
14:54:15 17 evidence today, it became clear that they're not really attacking
14:54:20 18 that particular point with the evidence that they put on today.
14:54:25 19 They're not saying or there was no new evidence in the fact on
14:54:29 20 whether Mr. Colorado was paid back for that \$10 million.

14:54:34 21 So with that in mind, that \$10 million shouldn't be
14:54:37 22 used to increase his base offense level. And so, instead of 28,
14:54:42 23 it should start at eight. And so, then you look at what money
14:54:47 24 was used and if the amount is zero, then obviously no drug
14:54:50 25 proceeds were laundered by Mr. Colorado. So the six-level

14:54:55 1 increase that applies when drug proceeds are laundered should not
14:54:59 2 apply either.

14:55:02 3 And for the reasons stated in our objection, we also
14:55:04 4 believe those facts support a conclusion that Mr. Colorado taking
14:55:12 5 part in this conspiracy in some ways, in adding legitimate money
14:55:16 6 to the conspiracy, and being this face of wealth that supports
14:55:26 7 this group of people, that may be, but he never actually
14:55:31 8 laundered money. And that goes back to the closing arguments of
14:55:36 9 Mr. DeGeurin was arguing that his checks and his transactions
14:55:41 10 weren't -- doesn't include any specified unlawful activities. We
14:55:45 11 actually have an objection from the government where it says it's
14:55:47 12 not necessary.

14:55:50 13 And they haven't really backed down from that
14:55:52 14 particular point. They're just --

14:55:56 15 THE COURT: There's evidence, pretty undisputed
14:56:04 16 evidence in the record in the trial where people that he sought
14:56:08 17 out -- or at least one person that he sought out to assist him in
14:56:14 18 investments outside of Mexico said he had a bad habit of mixing
14:56:23 19 up ADT and his own funds. That stands undenied.

14:56:32 20 MR. SANCHEZ: That's true, your Honor.

14:56:34 21 THE COURT: And then, we have -- so where did this
14:56:39 22 money come from?

14:56:40 23 MR. SANCHEZ: The money? Or is that a question or --

14:56:43 24 THE COURT: No, no. I'm just talking out loud so that
14:56:45 25 you know what the Court is -- feel free to ask me any questions

14:56:50 1 you want. This is, of course, serious business.

14:56:55 2 So where does the money come from? The government, I
14:57:01 3 suspect in a minute, is going to say it's anything comes from ADT
14:57:06 4 came from fraudulent money, just like the money that came from
14:57:18 5 Mr. Del Rayo, who had the courage to say no, finally. But I
14:57:30 6 understand your objection.

14:57:34 7 I also understand that just like today's testimony with
14:57:38 8 Mr. Segura, the Court puts no credibility in that testimony
14:57:43 9 because it's all self-manufactured by the books of ADT, which
14:57:49 10 this man runs individually. I kept waiting during the trial and
14:57:57 11 I kept waiting today for bank records, or something. And
14:58:04 12 admittedly, most everything that comes out of Mexico has to be
14:58:07 13 questioned to some degree. I've been used to that all my life.

14:58:13 14 MR. SANCHEZ: And, your Honor, in regards to that, we
14:58:15 15 submitted 1,500 pages of bank records at trial.

14:58:18 16 THE COURT: Oh, I understand that. I understand. I've
14:58:21 17 gone through that. You know, you want to know what's troubling
14:58:30 18 the Court is, of course, there's no doubt in my mind that Mr.
14:58:38 19 Colorado-Cessa's guilty. He's guilty of being a member of this
14:58:42 20 conspiracy. He furthered the conspiracy. Didn't take the jury
14:58:46 21 long to do that.

14:58:48 22 Now, how to calculate these guidelines is, of course,
14:58:52 23 what we're up against at this point. So you take the position
14:58:57 24 that there is no evidence of it.

14:59:02 25 MR. SANCHEZ: Your Honor, just can I ask -- take no

14:59:04 1 evidence of it being -- in our objections, we didn't --

14:59:07 2 THE COURT: No evidence that drug money was used by Mr.
14:59:12 3 Colorado-Cessa.

14:59:12 4 MR. SANCHEZ: That's correct.

14:59:13 5 THE COURT: In purchase of these horses. Well, we know
14:59:15 6 that it was commingled for certain with payment of expenses
14:59:23 7 because when it went through Nayen, or Mr. Garcia, or others, it
14:59:31 8 was disbursed to multiple other persons. But I understand your
14:59:36 9 argument. So I'll hear from the government.

14:59:40 10 MS. FERNALD: Your Honor, the evidence that was
14:59:45 11 presented at trial is really quite simple and that was -- is that
14:59:52 12 there were two different theories on the level of moneys. The
14:59:56 13 first theory or the evidence that was presented at trial was
14:59:59 14 based upon the financial statements in which ADT had presented to
15:00:04 15 UBS. They were the only legitimate documents that we had in
15:00:08 16 order to assess what the financial status was.

15:00:12 17 And the undisputed testimony that was given by Agent
15:00:15 18 Fernald was that ADT would not have paid its expenses from the
15:00:21 19 income it received and been able to purchase horses. So the
15:00:25 20 money must have come from another source, as the Court has said.
15:00:30 21 And from the circumstantial evidence that was presented in trial
15:00:32 22 and from the cooperators presented at trial that you heard, that
15:00:38 23 circumstantial evidence would lead to the conclusion of the Zeta
15:00:41 24 money.

15:00:41 25 We had three different cooperators that came into

15:00:44 1 trial. We have "Mamito," we had Hinojosa, we had the evidence
15:00:51 2 that today was presented by the agents with "Pitufo" that his
15:00:57 3 knowledge and his intricate involvement with the Zetas from as
15:01:02 4 long as 2004 on.

15:01:04 5 The second part --

15:01:04 6 THE COURT: There's no question that there was a close
15:01:07 7 association between Mr. Colorado-Cessa and the Zetas. I kept
15:01:12 8 most of that evidence out of the record because of the prejudice
15:01:15 9 that it had. The record will reflect that. But I don't recall
15:01:21 10 anything other than a logical jump that it had to be drug money
15:01:31 11 because there wasn't enough money in ADT to do it.

15:01:35 12 MS. FERNALD: And the second half of that is the
15:01:37 13 commingling part, and that is that what happened in this
15:01:43 14 particular case is the agents never found any cash transaction
15:01:46 15 from drugs to buy horses. And I acknowledge that to the Court.
15:01:50 16 There was no evidence of that. But as the Court has said, this
15:01:53 17 is a much more sophisticated scheme or plan in which there was
15:01:57 18 commingled money.

15:01:59 19 So the evidence that we attempted to present to the
15:02:02 20 Court was that, in fact, the money would come from the Zetas.
15:02:07 21 The money would be funneled through different politicians so that
15:02:12 22 Pemex contracts were then paid to, bid on, given to
15:02:20 23 Colorado-Cessa and kicked back to him so that there actually was
15:02:24 24 a money-laundering scheme. And that's a logical conclusion about
15:02:27 25 how this was actually traced.

15:02:29 1 We do not have access to any of the Mexican documents
15:02:33 2 or, of course, we would have analyzed that and traced it. The
15:02:37 3 records as the Court has already acknowledged that we had
15:02:40 4 received from the objections today, the bank records, they're
15:02:44 5 incomplete. We can't tell. But it was the government's intent
15:02:47 6 to present evidence not of cash transactions coming through
15:02:52 7 directly from the Zetas to purchase these horses, but that it
15:02:56 8 went through and it funneled through different sources in order
15:02:59 9 to get to Colorado-Cessa. Without the Zetas, ADT would not have
15:03:05 10 been able to function. Without Pemex, ADT would not have been
15:03:08 11 able to function. And I'll submit to the Court without ADT,
15:03:12 12 Colorado-Cessa would have had no money either.

15:03:14 13 And so, that was the evidence that was attempted to be
15:03:17 14 presented.

15:03:19 15 MR. SANCHEZ: There's a couple of points I want to
15:03:21 16 address that Ms. Fernald just testified to. One, I think she
15:03:25 17 made a misstatement that Agent Fernald's testimony --

15:03:27 18 THE COURT: What she just testified to? Is that what
15:03:29 19 you --

15:03:30 20 MR. SANCHEZ: Yeah. That Agent Fernald's testimony was
15:03:33 21 undisputed and that's not true. But the other thing is that the
15:03:37 22 source of those -- I mean, we've gotta keep in mind where those
15:03:41 23 financial statements -- or where did they come from. They
15:03:43 24 originally came from ADT that were sent to UBS. And UBS did a
15:03:48 25 very thorough investigation about the value and the worth of this

15:03:52 1 company. The value and the worth of the company that UBS
15:03:56 2 determined was 70 to 90 million, and that's something that came
15:03:59 3 from the government's witness.

15:04:01 4 So to say that it's a company barely breaking even from
15:04:04 5 reading a few financial statements by a person that has no
15:04:08 6 information about how financial statements are put together in
15:04:11 7 Mexico, doesn't know about the financial laws of Mexico or what
15:04:16 8 needs to be reported as income, it's not an undisputed fact that
15:04:22 9 he was barely breaking even. That doesn't -- that's not true.

15:04:25 10 The other thing that I want to talk about is this idea
15:04:29 11 that the witnesses clearly testified -- the three witnesses
15:04:36 12 clearly testified that Francisco received money back. If you
15:04:41 13 look at that testimony, it's not even -- I mean, it's so far
15:04:45 14 removed from being direct testimony, they're saying, well, I
15:04:49 15 heard that from Miguel that he may have paid some money back.
15:04:52 16 When? I don't know. How much? I don't know. I mean, we don't
15:04:55 17 have any ideas from that.

15:04:57 18 Then the last point, your Honor, is --

15:05:01 19 THE COURT: When did Torres die?

15:05:03 20 MR. SANCHEZ: Pardon?

15:05:04 21 THE COURT: When did Torres die?

15:05:05 22 MR. SANCHEZ: 2007. And --

15:05:07 23 THE COURT: And I heard evidence that Mr.

15:05:12 24 Colorado-Cessa was called upon to pay back the debts that he owed
15:05:16 25 Torres, and then, he was told just to wipe it off. The witness

15:05:21 1 testified to that from the stand.

15:05:23 2 MR. SANCHEZ: Right. And we don't agree to that. But
15:05:26 3 even if you accept that, that means that in 2007, there is no
15:05:31 4 more debt between Mr. Colorado and the Zetas.

15:05:34 5 THE COURT: Or there was an agreement between them how
15:05:36 6 the debt would be paid.

15:05:37 7 MR. SANCHEZ: But that's not -- I mean, that's not
15:05:39 8 supported by -- I mean, that's one of those leaps that I think
15:05:42 9 the Court shouldn't make from the record that we have.

15:05:45 10 The other point that I want to make about the documents
15:05:48 11 that Mr. Segura testified to, those documents are documents that
15:05:55 12 ADT had in its possession, but they're all bank-produced
15:05:59 13 documents or documents that come from Pemex. We provided a bulk
15:06:03 14 of those documents -- so the mix of the documents in that Exhibit
15:06:07 15 C or in the Exhibit 1 that we've now supplemented are documents
15:06:11 16 that either come from the government that we provided to Mr.
15:06:14 17 Segura from the government, from their bank statements that they
15:06:17 18 collected, bank statements that we had, or Pemex documents that
15:06:23 19 they would be able to at least make some effort to go to Pemex.

15:06:26 20 I mean, if they can bring a Mexican-protected witness
15:06:29 21 under the custody of the Attorney General, you'd think they would
15:06:33 22 have had the access to get publicly available documents in
15:06:36 23 Mexico, and there was never any attempt to do so.

15:06:39 24 THE COURT: They couldn't even get, at your request,
15:06:43 25 information whether or not felony charges were pending against

15:06:48 1 the witness in this case. Wasn't your fault. The State
15:06:53 2 Department couldn't get it. So don't tell me what you can and
15:06:55 3 can't get out of Mexico.

15:06:57 4 MR. SANCHEZ: Well, but I think we're being put in an
15:06:59 5 unfair position in saying, well, I don't know that those
15:07:02 6 documents are accurate when we're providing all the documents
15:07:06 7 that we received from the bank. And I'm not sure how much
15:07:09 8 further we can go to give the Court the information that we have
15:07:14 9 access to to show that the payments that Mr. Colorado made that
15:07:17 10 make up that \$10 million come from legitimately earned money from
15:07:22 11 Pemex.

15:07:23 12 And in regards to these bribes and these different
15:07:27 13 things, we've put on a witness that said that if there was a \$6
15:07:33 14 million cash infusion, that would have been obvious to see. And
15:07:35 15 if he was in charge of getting that -- those machines and that
15:07:40 16 didn't happen. Other than asking him whether he's being
15:07:45 17 truthful, there wasn't really very much legitimate
15:07:48 18 cross-examination against that point.

15:07:50 19 They don't have any documents to support this idea that
15:07:53 20 machines were purchased with cash. They didn't -- as far as I
15:07:56 21 know, didn't make any attempts to get any documents to verify
15:08:00 22 whether \$6 million was used to make cash payments. We have the
15:08:06 23 second notebook that I didn't introduce, that I didn't discuss.
15:08:11 24 It's actually a list of equipment that was purchased during that
15:08:16 25 year, and it shows how the money was purchased, what accounts the

15:08:19 1 money came from, and it goes through in detail. It wasn't
15:08:23 2 something that was necessary because there wasn't a lot of
15:08:25 3 cross-examination into that point.

15:08:27 4 If the Court doubts the credibility of Mr. Segura, I
15:08:31 5 don't know if that would help in any way. But we're prepared to
15:08:35 6 proffer that, as well, your Honor.

15:08:41 7 THE COURT: Well, in this case you've had the really
15:08:49 8 virtually undeniable truth that the Zetas had drug money. We
15:08:59 9 know the Zetas had drug money and that the Zeta money that came
15:09:04 10 across that went into these operations was certainly laundered.
15:09:25 11 And the problem exists is the inability of the government or the
15:09:32 12 credibility of the witness and/or records brought by the
15:09:37 13 defendant, because all we know is that money, big sums of it,
15:09:45 14 went from Mexico from Mr. Colorado-Cessa to purchase these
15:09:51 15 horses.

15:09:52 16 We also know, which is obviously what convicted him,
15:09:59 17 that he was a big part of the joint efforts of these people to
15:10:07 18 buy and sell horses and race horses and make money off of horses,
15:10:14 19 even to the point of taking bad horses and overpaying them just
15:10:21 20 to get the money in the system. That seems where we are now. So
15:10:29 21 get me your best shot from the government's standpoint as to how
15:10:34 22 I can take the hurdle that Mr. Colorado-Cessa, while clearly a
15:10:44 23 conspirator in this conspiracy, used illegal drugs -- or used
15:10:48 24 illegal money from drugs or --

15:10:51 25 MS. FERNALD: If I could.

15:10:52 1 THE COURT: -- whatnot.

15:10:53 2 MS. FERNALD: -- do a little bit of a story line and go
15:10:55 3 back to 2004 when ADT, according to Charlie Hinojosa, was
15:11:00 4 struggling and he asked for a \$6 million loan where a \$6 million
15:11:06 5 loan was given from "Zeta 14," Efrain Torres, to Colorado-Cessa
15:11:11 6 in order to capitalize ADT Petro Servicios. It was drug money
15:11:16 7 that started that business. I say started it. It had already
15:11:19 8 been in existence but really made that business grow, according
15:11:23 9 to the testimony that was -- that has been given to us.

15:11:26 10 And as the defendant got further and further behind
15:11:30 11 with his gambling debts, some of the evidence was proffered to
15:11:34 12 the Court. Not heard by the jury but proffered to the Court.
15:11:38 13 Additional moneys were given by Efrain Torres up until his death
15:11:42 14 of 2007. So ADT, in essence, is a Zeta organization. And in
15:11:51 15 fact, you have other cooperators that talks about 80 percent, 20
15:11:56 16 percent, 80 percent being owned by the Zetas, 20 percent being
15:12:00 17 owned by this particular defendant of ADT.

15:12:03 18 Anything, according to the commingling theory, anything
15:12:07 19 that comes from ADT from Pemex, or anything, is now at this point
15:12:13 20 so commingled with Zeta money that it's unable to be
15:12:17 21 distinguished. And if you look at the application note under
15:12:22 22 2S1.1(3)(B), it talks specifically about this commingling. And
15:12:27 23 the commingling being that in a transaction where there are
15:12:35 24 derived funds, it is the amount of criminally derived funds, not
15:12:39 25 the amount of the commingled, if the defendant provides

15:12:42 1 sufficient information to determine the amount. If the amount of
15:12:46 2 the criminally derived funds is difficult or impractical to
15:12:50 3 determine, the value of the laundered funds, for the purpose of
15:12:54 4 subsection (a)(2), is the total amount of the commingled funds.
15:12:59 5 And that's what the PSI has given you on this particular case,
15:13:03 6 and that is what the government is relying upon.

15:13:05 7 I want to address one issue that was brought up about
15:13:09 8 whether or not his debt was paid off when he met with "40" after
15:13:14 9 the death of Efrain Torres.

15:13:18 10 THE COURT: You say his debt was paid off. It was
15:13:20 11 taken off the list.

15:13:22 12 MS. FERNALD: Correct.

15:13:22 13 THE COURT: Owed debts.

15:13:24 14 MS. FERNALD: It is not the government's position that
15:13:26 15 his debt was paid off. The government's position is he now
15:13:30 16 worked for "40," and that could be evidence as this court can
15:13:34 17 tell by the records by that Jaff loan, which happened afterwards.
15:13:40 18 He was desperate to get the money together, Colorado-Cessa was,
15:13:43 19 to buy additional horses; and he was so desperate to do that for
15:13:46 20 "40" that he went out and got a ten percent month loan from Arian
15:13:51 21 Jaff that was a loan shark. And I think there's sufficient
15:13:54 22 evidence to prove those.

15:13:56 23 THE COURT: Loan shark is a -- that he got two loans
15:13:59 24 that were just no person in their right business mind would do
15:14:05 25 that.

15:14:06 1 MS. FERNALD: And the jury verdict, Mr. Gardner's
15:14:10 2 reminding me, the jury verdict in this particular case, I think,
15:14:13 3 your Honor, is pretty telling about what the jury determined in
15:14:15 4 this particular case. As the Court will recall, there were four
15:14:18 5 different possible theories on the guilty verdict. And Mr.
15:14:24 6 Colorado-Cessa's case, this jury, as you read through it, took a
15:14:28 7 lot of time to determine the different theories, and they had
15:14:31 8 different yes-and-no answers on these.

15:14:35 9 There was no evidence on this particular case that was
15:14:37 10 presented against Colorado-Cessa of structuring, of avoiding the
15:14:43 11 currency requirements, the kidnapping, or the bribery. The only
15:14:46 12 evidence that's been presented by the government in this
15:14:49 13 particular case was of the drug proceeds, and that is exactly
15:14:53 14 what this jury found on the verdict form on those four
15:14:57 15 questionnaires, and I think it's pretty telling of what was going
15:15:00 16 on in their minds.

15:15:01 17 THE COURT: The question is not that drug money wasn't
15:15:05 18 used. Even by Mr. Cessa. The jury found it. The question is
15:15:12 19 how much. Okay. Anything further?

15:15:19 20 MR. SANCHEZ: Just briefly, your Honor, in regards to
15:15:21 21 the commingling. That's the argument that we laid out in our
15:15:24 22 reply why it didn't make sense. So I mean, it would -- so, in
15:15:28 23 other words, they're not saying that they could point to any
15:15:31 24 amount within those 38 transactions that they can say are
15:15:34 25 actually drug proceeds, but instead, they can point to some \$6

15:15:39 1 million figure that was given back in 2004, 2005.

15:15:43 2 What that would do is alleviate them from any
15:15:45 3 responsibility if they can just go back to an earlier amount and
15:15:48 4 show half of the money that's put in as drug proceeds, and then,
15:15:51 5 all of a sudden, they don't have to show what happens down the
15:15:54 6 road. I don't think that's what the note is asking.

15:15:58 7 THE COURT: Well, I don't know that the note, just like
15:16:01 8 many cases that seem to fall in Austin when you try to put the
15:16:05 9 facts of a given case into the sentencing guideline structure,
15:16:12 10 you end up getting shredded wheat. The difficulty here is it
15:16:19 11 works both ways, frankly. It works hard on the defendant, but it
15:16:23 12 works harder on the government. They can't get any information
15:16:26 13 on there, so they have to create that.

15:16:30 14 If you take your position literally, it would be almost
15:16:34 15 impossible for any Mexican citizen to be guilty of laundering in
15:16:40 16 the United States, which is not this case.

15:16:46 17 MR. SANCHEZ: Well, the only other thing that I want to
15:16:50 18 point out is that --

15:16:53 19 THE COURT: I'm going to let Mr. DeGeurin speak because
15:16:55 20 he's going to start hollering at me.

15:16:57 21 MR. DEGEURIN: I don't want to repeat and I don't want
15:17:06 22 -- but I want to weigh in. If we go back to how I met Mr.
15:17:16 23 Colorado.

15:17:17 24 THE COURT: No. You're not going to become a witness.

15:17:20 25 MR. DEGEURIN: Okay. But I just -- for one point.

15:17:22 1 THE COURT: No. This is an objection. If you have
15:17:24 2 something to put on the objection.

15:17:26 3 MR. DEGEURIN: Yes, I do.

15:17:27 4 THE COURT: All right.

15:17:29 5 MR. DEGEURIN: You have a person that took the stand
15:17:32 6 that said he knows that there was \$6 million in 2003 or 4.
15:17:39 7 That's what the government is relying upon. And he says, the way
15:17:44 8 I prove that is because I have it in my books and I gave it to
15:17:48 9 the government. And for a half a day, I asked him, where is your
15:17:54 10 computer? The government has it. I gave him both a disc and a
15:18:00 11 so and so. That's proof. That's like saying, if you don't
15:18:04 12 believe this is snake oil that will cure a broken heart, just
15:18:08 13 read the bottle. But they never came up with it.

15:18:12 14 So you compare that with what do you do if someone says
15:18:17 15 that it's not true? You call the person that was around that
15:18:23 16 actually bought the equipment, that actually was involved in
15:18:27 17 buying equipment with the records and bank records and Pemex
15:18:32 18 records, and you show the Court it did not have it.

15:18:38 19 And so, here, the Court is left, of course, with here's
15:18:42 20 a guy that says he doesn't back it up, no proof of it except what
15:18:48 21 he said on the stand. And we know all the situation he's in:
15:18:52 22 He's a person that was involved in the killings of people to get
15:18:56 23 their way. Do you think he might -- should it be considered how
15:19:02 24 easy it would be to kind of testify about something that's not
15:19:07 25 true? It's much easier to do that than it is to kill a child or

1 kill his wife, but they do that. And you compare that, you know,
2 in the real picture, Judge, compare that with what we gave you.
3 Way in advance in trial, 1,500 pages before the sentencing, we
4 give it -- we got the records; and they're not only our records,
5 they're the bank records and they're Pemex records.

6 Remember, Judge, the testimony that the most -- the
7 largest environmental tragedy in the history of Mexico happened
8 in 2005. In 2005, Mr. Colorado went in and saved a river, got
9 \$30 million, paid from Pemex to him in an emergency situation,
10 and that's where we come from a small company and kept growing
11 from that in 2005, well before this conspiracy, all the way
12 through. So you have that, too. Don't -- I mean, I know it's
13 hard.

14 THE COURT: So I said, I'm not going to let you give a
15 jury argument and that's all you're doing.

16 MR. DEGEURIN: It's the way -- I just don't want it
17 forgotten that there is some burden on the government to show
18 that the funds were from the specified unlawful activity and not
19 legitimate funds.

20 MS. FERNALD: Your Honor, may I add one more thing?

21 THE COURT: Yes, ma'am.

22 MS. FERNALD: The Court actually said this from the
23 onset and the PSI in this case was very -- in my opinion was very
24 conservative. There's some testimony about how conservative the
25 figures were. But even on the PSI itself, on the \$10 million, a

1 little bit over \$10 million that was assessed to Mr.

2 Colorado-Cessa, no relevant conduct was ever assessed in that

3 PSI. No conduct for what was reasonably foreseeable.

4 So I think that this \$10 million is accurate. I think
5 it's a conservative figure. But I think it also leaves out any
6 relevant conduct that could have been picked up in the PSI from
7 the other coconspirators that were reasonably foreseeable to Mr.
8 Colorado-Cessa.

9 THE COURT: There's no sense to me from all of the
10 evidence that's conflicting or the omission of evidence that you
11 can't get totally illogical that Mr. Colorado-Cessa, without
12 being under force, would put up all of the money that was put up
13 with people who he knew were certainly not popular in the United
14 States.

15 Counsel makes a good argument. The answer to his
16 argument is the government couldn't get that proof. Everybody's
17 dead. Mr. Torres is dead. Conspirators in this case are dead.
18 Fellow conspirators with Mr. Colorado-Cessa, I might add. The
19 government says they've made a case. I've got no doubt that drug
20 money was involved in Mr. Colorado-Cessa's contribution to this
21 and his purchase of horses, which he let other people, for the
22 most part, have. Although from a fellowship standpoint, he was
23 in on the races, and that type of thing, with his fellow
24 conspirators.

25 So I'll overrule the objection from the defense. But I

15:23:50 1 put everybody on notice that my sentence today is not going to be
15:23:54 2 a guideline sentence. It's going to be pursuant to 18 United
15:24:01 3 States Code 3553(a). And I tell you that so that you could make
15:24:05 4 whatever appropriate arrangement -- statements you wish to make
15:24:10 5 at the time of sentencing.

15:24:19 6 So that will take care of the first two objections.
15:24:27 7 The second on role on not getting to be a minor player in the
15:24:34 8 conspiracy, counsel in his honesty has already answered that
15:24:39 9 himself. This was the head of the conspiracy with regard to the,
15:24:50 10 quote, amount of money that was available to back up the bids and
15:24:53 11 whatever.

15:24:55 12 Mr. Colorado was not the leader in the conspiracy.
15:24:59 13 Obviously.

15:25:00 14 MR. SANCHEZ: I think I used the word "face." Just --

15:25:02 15 THE COURT: Okay. Face is the same thing to me, and I
15:25:06 16 don't mean to embarrass you. It's just that that's -- certainly
15:25:12 17 when Colorado-Cessa said that the money would come in -- or
15:25:16 18 they'd say it's Colorado-Cessa, the money would come in and it
15:25:20 19 did come in, I don't believe he was a minor participant in any
15:25:25 20 way, shape or form, and I think he knew exactly what was going
15:25:28 21 on.

15:25:29 22 Do you know of any legal reason with those rulings that
15:25:34 23 we shouldn't proceed with sentencing?

15:25:37 24 MR. SANCHEZ: No. Other than what I've already stated
15:25:39 25 on the record and in writing. And, your Honor, I'm going to sit

15:25:42 1 down, stay close so Mr. DeGeurin can finish the rest.

15:25:47 2 THE COURT: Then I'll ask Mr. DeGeurin, do you know of
15:25:49 3 any legal reason we shouldn't proceed?

15:25:51 4 MR. DEGEURIN: Well, we do have a second memorandum
15:25:53 5 where we're asking for departures and variance.

15:25:56 6 THE COURT: Well, that's true. But I'm not depriving
15:25:58 7 you of those --

15:26:00 8 MR. DEGEURIN: Right.

15:26:01 9 THE COURT: -- opportunities to state that. This is
15:26:04 10 just whether or not we go into sentencing.

15:26:07 11 MR. DEGEURIN: No. We're certainly going to be able to
15:26:10 12 talk about those before you --

15:26:11 13 THE COURT: Yeah. That's what we do all the time.

15:26:13 14 MR. DEGEURIN: Well, I mean, I have had the other --

15:26:16 15 THE COURT: You know, I have reviewed -- I've reviewed
15:26:18 16 both of your things. I have reviewed the CD. I have got
15:26:28 17 everything that the probation department has given me. I've got
15:26:32 18 your objections. I feel like a bar going to a final examination
15:26:40 19 after a semester.

15:26:44 20 But the sentence that I'm going to impose will not be
15:26:47 21 made until you've had a full opportunity to tell me what and why
15:26:52 22 you're requesting.

15:26:53 23 MR. DEGEURIN: All right. Then there is no legal
15:26:55 24 reason not to proceed.

15:26:57 25 THE COURT: Does the government have any reason not to

15:26:59 1 proceed?

15:27:00 2 MS. FERNALD: No, your Honor.

15:27:01 3 THE COURT: Well, Mr. Colorado-Cessa, we start off with
15:27:03 4 you, sir. You have the right to say anything that you wish.
15:27:06 5 You're not required to say anything, but you have that right.
15:27:10 6 And then, so that you know what will happen, then your lawyers
15:27:12 7 would have the right to speak. Then the government's lawyers has
15:27:16 8 the right to speak. Then the probation department can comment if
15:27:19 9 they wish. And then, in the federal courts here, anybody has the
15:27:23 10 right to speak. And then, you and Mr. DeGeurin would have the
15:27:27 11 right to respond if you thought a response was necessary for what
15:27:31 12 was said.

15:27:33 13 So if you'd like to speak, now is the opportunity for
15:27:36 14 you to do so.

15:27:37 15 DEFENDANT COLORADO-CESSA: Good afternoon.

15:27:55 16 Throughout all of this, a lot has been said about me
15:27:57 17 personally and about my company ADT Petro Servicios, but
15:28:07 18 unfortunately, we have still not gotten the whole truth. And I'd
15:28:25 19 like to state the following, which is part of this whole truth,
15:28:29 20 and I want to say that so that you will begin to know who I am.

15:28:41 21 My full name is Francisco Antonio Colorado-Cessa. I am
15:28:45 22 Francisco because my father was a Francisco and my -- Antonio is
15:28:48 23 from my grandfather. I'm 52 years old and I am a Mexican
15:28:58 24 businessman. I have worked for Petro Mexicanos for 32 years, and
15:29:10 25 in 2001, I established ADT Petro Servicios. I want to tell you

1 I'm very proud of the life I've had because I have been very
2 fortunate, but nothing has been coming easily for me.

3 ADT Petro Servicios, throughout this period that it's
4 been accused of all this, won public contracts. It wasn't given
5 things, it won publicly tendered contracts for amounts of over
6 \$450 million for a period even before the Zetas came into
7 existence. I am a person who because I followed my instincts and
8 my dreams has been bankrupt on three occasions. Just like the
9 phoenix, through hard work and perseverance, I have been able to
10 take flight and have been able to create a very successful
11 company.

12 I want you to know, your Honor, I've survived two very
13 intense wars. The first one, I underwent 17 years ago, and this
14 is the war I waged against my addiction to cocaine and other
15 character flaws I had. And the second war is the one I'm
16 fighting now, trying to show that I am a good, decent man; and
17 for that reason, on July 14th, 2012, I personally turned myself
18 in, after having seen on -- in the newspapers and on the internet
19 my name linked to this shameful case.

20 And, your Honor, let's go straight to the most
21 important facts. I am the father of three incredible children of
22 who I am extremely proud. And I love my wife so much more than
23 most people could even imagine. And I'd like to thank people in
24 the United States and the Constitution that they have for the
25 laws that arise out of that Constitution, for the justice that I

15:33:29 1 have seen since I have turned myself in.

15:33:42 2 And with all due respect, I'd like to thank the
15:33:49 3 prosecutor, Doug Gardner, for having treated me with all the
15:33:52 4 dignity I am due. But I'd also like to say there are many
15:34:08 5 occasions, facts are not what they seem to be when you look at
15:34:11 6 them, but they are circumstantial. And in this specific case, I
15:34:22 7 find myself involved in a very big dilemma.

15:34:51 8 I ask, what would you do if you find yourself at a sale
15:34:57 9 or purchasing something and you get a phone call saying, you do
15:35:03 10 me the favor of buying this and/or your family will die like this
15:35:10 11 and this and this. It's difficult.

15:35:15 12 THE COURT: Hold on. We'll take a brief recess and
15:35:19 13 talk with your client.

15:35:20 14 MR. DEGEURIN: Okay.

15:39:00 15 (Recess.)

15:39:07 16 THE COURT: Ready to continue, Mr. DeGeurin?

15:39:09 17 MR. DEGEURIN: Yes, we are. Thank you, Judge.

15:39:12 18 THE COURT: Mr. Colorado-Cessa.

15:39:32 19 DEFENDANT COLORADO-CESSA: I would also like to say to
15:39:33 20 Michelle, I thank you for the kindness of asking how my sons have
15:39:39 21 done, and by doing so, you always showed clearly what a lady you
15:39:54 22 are and you have my full respect. I would also like to say a
15:40:06 23 word to my family, Pancho, Michel, Antonio and Maria. I truly
15:40:14 24 love you. I love you. And for you, your Honor, with all due
15:40:31 25 respect, I would like to quote a paragraph from Don Quijote de la

15:40:38 1 Mancha written by Saavedra.

15:40:38 2 THE COURT: I've read the book.

15:40:45 3 THE INTERPRETER: Sorry. Interpreter, sorry.

15:40:51 4 DEFENDANT COLORADO-CESSA: Sancho, he's talking to Don
15:40:55 5 Quijote, and fear not, my Lord, because in the face of your
15:41:05 6 judgment, they have placed a wise man whose hammer, according to
15:41:27 7 those people who know, works in favor of the Lord and not in
15:41:31 8 favor of mankind. Thank you, your Honor.

15:41:35 9 THE COURT: Thank you, sir. Mr. DeGeurin.

15:41:38 10 MR. DEGEURIN: Yes, your Honor.

15:41:42 11 You have the letters. You've read the letters. We
15:41:47 12 produced the video because I wanted you to actually see the
15:41:54 13 people that are talking about him and his company of which
15:41:58 14 they're all so proud, because I think these issues go to the 3553
15:42:05 15 considerations that you said you're going to think about.

15:42:13 16 The dilemma that Mr. Colorado was talking about, I
15:42:20 17 believe, is when he came to my office and said, what do I do?
15:42:26 18 And I said, you face the charges. And it became clear that
15:42:32 19 through the law, as we know it, there's no clear defense of
15:42:42 20 coercion and duress, because no one held a gun to his head, but
15:42:49 21 there was a dilemma just the same.

15:42:52 22 And the dilemma was -- and also, Judge, I want you to
15:42:56 23 consider, you struggle with it because there's no evidence, no
15:43:00 24 proof from the government that drug money was given to Mr. Zeta
15:43:06 25 -- I mean, Mr. Colorado. So he paid for those horses with his

1 funds and with ADT funds. And when it was requested that he pay
2 a whole lot at a certain period of time, he went out and borrowed
3 money from a ten percent interest twice and then, as we put the
4 evidence on, paid that back with his own funds, not drug money,
5 not Zeta money, but ADT money. And that's why I had to provide
6 for you the people that talk about ADT, let you know and see for
7 yourself is a real company that does wonderful things and is a
8 socially conscious company because of Mr. Colorado.

9 Everybody that was asked about Mr. Colorado loves him.
10 You see it of the 100-and-something letters, we gave you 13. You
11 can see the rest if you want to, but these are the best samples.
12 Video you saw, the stories you hear, they're all about the person
13 who cares about others, regardless of their stature in life, a
14 generous person, a kind person, and a person who had given back
15 his fortunate situation. That's totally inconsistent with a
16 group of people who take what they want and they learned to get
17 their will. They use fear. It is not empty threats. People are
18 killed. You have that -- you have the evidence. The government
19 has the evidence. It didn't go before the jury, but you have it,
20 you know it, and you've heard about it over and over again.

21 If a person who comes into the focus of that
22 organization, which actually started like in 2007 and 8, didn't
23 start before that, that organization, but that's when the brutal,
24 sadistic murders, decapitations, torture started. So at that
25 period of time when someone who is big in his community, loved by

1 everybody, it's in the paper. Remember he got a \$30 million
2 contract in 2005. He became known to everybody, "Pancho"
3 Colorado. He started his environmental company because he
4 realized the consciousness of Mexico was going towards
5 environmental concerns, and he took advantage of it.

6 So once you get in the focus of Los Zeta, if they focus
7 on you and they want something you've got, in this case, as the
8 government said in some of the pleadings, they wanted legitimate
9 funds to be used by the horses to come to Mr. Colorado. One
10 other thing, Judge, that's very important to this dilemma I'm
11 talking about is if -- and you heard testimony, your Honor, that
12 the law enforcement in Mexico has been infiltrated. A whole
13 police force, according to one witness, was kidnapped and turned
14 into Zetas.

15 So you have a situation where if you come into their
16 focus in a town -- in the state of Tuxpan, which are the articles
17 that we attached said, the President of Mexico said the Zetas
18 have almost taken over Veracruz, the state of Veracruz. If you
19 go to the authorities, terrible things happen. Your family could
20 be kidnapped, your children could be murdered. If you don't go
21 to the authorities and you do as they ask, then they leave you
22 alone for a while. And that's what happened to Mr. Colorado. He
23 left alone so long as he paid the money, his money when they
24 wanted it. And when he didn't have the money because he had
25 obligations, he had to borrow it. But the evidence shows all the

15:48:18 1 money that he borrowed, he paid back with good money, and all the
15:48:21 2 money he spent was good money.

15:48:22 3 Now, why would he part with money without getting
15:48:27 4 anything in return? And, Judge, I think you can answer that
15:48:33 5 question yourself. It's a difficult time when you have to fend
15:48:37 6 for yourself in Veracruz, Mexico the last decade.

15:48:45 7 THE COURT: I saw the pictures of it, Del Rayo.

15:48:50 8 MR. DEGEURIN: You know, that's a good point because
15:48:52 9 Del Rayo was a businessman, also, and a very successful --

15:48:59 10 THE COURT: Was indicted in this case.

15:49:02 11 MR. DEGEURIN: Was indicted.

15:49:04 12 THE COURT: Came forward and told the truth.

15:49:06 13 MR. DEGEURIN: Well, you know what happened.

15:49:07 14 THE COURT: And had the guts to testify.

15:49:09 15 MR. DEGEURIN: Yeah. He actually spent his money and
15:49:13 16 made his good money, and they used it to further their
15:49:20 17 conspiracy. They bought horses or paid for expenses with this
15:49:25 18 good money. So because it was his good money, not -- take away
15:49:29 19 the coercion, it wouldn't have been counted. It was laundered
15:49:33 20 money, but it was still used and he could have been part of the
15:49:36 21 conspiracy.

15:49:37 22 THE COURT: Or could have been counted as laundered
15:49:40 23 money because it was by extortion, beating up and assault.

15:49:44 24 MR. DEGEURIN: Yeah. Which would be a different
15:49:48 25 indictment for -- but at any rate. So if Mr. Colorado is not in

15:49:56 1 the same shoes, he's at least in -- faced the same dilemma as Del
15:50:05 2 Rayo. And you can't go to the federal authorities then, maybe
15:50:13 3 even now, in Mexico and say, please don't tell anybody, you've
15:50:19 4 got to keep it secret, these people want me to do this. Can you
15:50:22 5 help me? But you can't tell anybody like we could do with the
15:50:26 6 FBI in the United States. If they kidnapped your daughter, you
15:50:29 7 go to the FBI and you say, gosh, they say if I contact the
15:50:32 8 authorities, my daughter dies. So be careful.

15:50:38 9 In Mexico at this time, as we've heard from the
15:50:40 10 testimony and newspapers, is if you went to authorities, the
15:50:45 11 Zetas would know and your daughter would die. So you have to --
15:50:49 12 this is a long way of saying, your Honor, as Mr. Colorado
15:50:54 13 explained in the -- in Mexico at this time. At the time this was
15:51:02 14 going on in Veracruz, you are alone. A dilemma comes, you have
15:51:10 15 to settle it your own way. You can't go to the authorities for
15:51:13 16 help. I have the money, take the money. I bought the horses,
15:51:20 17 they want the horse, take them. It's all yours. Still a crime,
15:51:26 18 Judge. It's a crime in the United States.

15:51:28 19 So he's got a situation where it's between two evils.
15:51:33 20 He gets nothing in return other than the safety of himself, his
15:51:36 21 family, and his business. He knows it's a crime in the United
15:51:43 22 States to help some people launder money and he chooses to do it.
15:51:52 23 So I tell him, turn yourself in, I'll go with you. They will
15:52:01 24 hear you out. They'll understand. You will receive a just
15:52:09 25 sentence.

15:52:09 1 His family was with him. My office together, we go, we
15:52:13 2 walked over. He has told you today he appreciates -- well, of
15:52:20 3 course, he'd like to be out on bond during the trial, but he
15:52:22 4 appreciates the fairness of the proceedings. Everything has been
15:52:25 5 provided for him. And we're at that point where I told him we'd
15:52:32 6 be at. You would hope that if you lived your life as well as he
15:52:41 7 has lived his life, you have all of these people that love you,
15:52:46 8 all of these people you helped, the 60-year-old people he
15:52:50 9 educates so they could read a book, the schools he started, the
15:52:55 10 children he's helped.

15:52:56 11 The people that he doesn't even know that have a heart
15:53:02 12 attack or have a heart problem, they can't do anything about it,
15:53:05 13 he provides without expectation of anything in return. Going to
15:53:12 14 the scene of an employee's heart attack and holding the person
15:53:17 15 until the hospital comes. Providing transportation for children
15:53:23 16 on his own. He has money, but he goes out there himself, too.
15:53:29 17 Go to the hospitals and see people that are maids and young poor
15:53:35 18 people that work for him. That's the type of person he is.

15:53:39 19 So I would hope that you recognize that. And I would
15:53:43 20 hope that if you live yourself like that, when someone like
15:53:49 21 "Mamito" or Hinojosa comes and says something about you that is
15:53:59 22 harmful, can't be proved except by word, although Hinojosa said,
15:54:09 23 I've got it down in a book, you can read it, the government has
15:54:12 24 it, you would hope that your life in the past would have some
15:54:16 25 kind of presumption to it so that the judgment day comes, the

15:54:24 1 Court with balance those things out and somehow, your good life
15:54:31 2 will help.

15:54:33 3 So with that, Judge, I'm asking that you sentence him
15:54:38 4 to 60 months, five solid years. I think that is an adequate
15:54:46 5 sentence. I think under the guidelines, time served is what is
15:54:51 6 called for if we'd won the objection. But 60 months for a man as
15:54:57 7 good as Mr. Colorado, who will -- he's 53 years old. Not in the
15:55:09 8 best of health, but he's okay. A life in front of him. He won't
15:55:12 9 be in the United States. When he serves that time, he'll be sent
15:55:16 10 back to Mexico. And that's what I ask for.

15:55:22 11 THE COURT: I'll hear from the government.

15:55:26 12 MS. FERNALD: Your Honor, we are asking for 240 months
15:55:29 13 under the guidelines. In the alternative under 3553(a),
15:55:36 14 longstanding relationships to the Los Zetas, even the formation
15:55:41 15 back in 2004 as it continued up until the date of his arrest.
15:55:46 16 Frankly, the argument that was posed by defense counsel comparing
15:55:50 17 Mr. Colorado-Cessa to Del Rayo Mora who testified in this case is
15:55:56 18 quite insulting. There's no evidence that that was ever true.
15:55:59 19 There has been no attempt to approach the government that he was
15:56:04 20 under any type of situation similar to that.

15:56:07 21 We're asking for 240 months.

15:56:10 22 MR. DEGEURIN: Your Honor, I will point out that there
15:56:13 23 was -- a government witness that testified that he was there when
15:56:18 24 his wife and children had fled Mexico and seeking asylum,
15:56:25 25 security guards had been hired by him and he was ruffled. He was

15:56:30 1 unlike himself and that was when he went out and got that big
15:56:34 2 loan. So, I mean, there is evidence of that coercion.

15:56:41 3 THE COURT: You just provided it if you were a witness.

15:56:45 4 MR. DEGEURIN: But I'm quoting what happened.

15:56:48 5 THE COURT: Probation have anything?

15:56:49 6 PROBATION OFFICER: Nothing, Judge.

15:56:52 7 THE COURT: Does anybody wish to speak at this
15:56:54 8 sentencing?

15:57:02 9 Well, the elements of the statute, for the benefit of
15:57:04 10 those in the courtroom, when I'm to consider the nature and
15:57:08 11 circumstance of the offense. The nature and circumstance of the
15:57:15 12 offense, those of you that have been here all day, you've already
15:57:19 13 seen the destruction of one family. You've heard about the
15:57:25 14 deaths of two others that were involved in the conspiracy. For
15:57:30 15 those of you who watched the trial, you saw what happens when you
15:57:34 16 say no or you follow through. You make your arrangements, you
15:57:47 17 get your family out. Then at some point in time, you have to
15:57:54 18 make a stand somewhere, somehow, and there's always a cost to it.

15:58:03 19 No telling how many people financially were hurt by
15:58:08 20 those races that were fixed. But it was not just that you bought
15:58:14 21 the horses, sir. It's that you participated in their activities.
15:58:21 22 Probably the smartest one there. I'll say probably you're the
15:58:27 23 smartest one there. You could anticipate the problems. You
15:58:31 24 could anticipate the horror. You could anticipate, you know,
15:58:39 25 when Mr. Villarreal died, Lopez died, too. I can't remember the

15:58:44 1 other one. Accidents.

15:58:50 2 Circumstance and nature of the offense is deplorable.

15:58:57 3 History and characteristics of the defendant. Well, the

15:58:59 4 government says that you've been in debt with the Zetas for a

15:59:01 5 long period of time, and that's the theory of their case. Your

15:59:07 6 lawyer and other people that I've read the letters and looked at

15:59:11 7 the video could go either way. The punishment is to reflect the

15:59:21 8 seriousness of the offense. And let's talk about seriousness of

15:59:30 9 the offense.

15:59:34 10 The laundered money from the drug cartels in the United

15:59:44 11 States is serious to both countries. Promote respect for the

15:59:53 12 law. You don't have any respect for the law of Mexico. It may

15:59:58 13 be a valid proposition. I do not know. I do not wish to ever

16:00:02 14 know. But I can tell you this: You don't have any respect for

16:00:05 15 the laws in the United States either because you participated in

16:00:11 16 this, and you were smart enough to know, sir, that it was wrong.

16:00:19 17 You made the decision.

16:00:20 18 I find no fault with the defense from the standpoint of

16:00:24 19 I don't want my family hurt and I don't want to be hurt.

16:00:29 20 Unfortunately, it was an everyday occurrence. I see people in

16:00:33 21 this courtroom every month that I've sentenced for being here

16:00:41 22 illegally, and they're back in two weeks, showing the signs of

16:00:45 23 what happens when they go back to Mexico. And I see fear when

16:00:53 24 they go back.

16:00:54 25 And you're not responsible for that, not directly, but

1 the activities that you have done in this particular lawsuit and,
2 particularly, the activities of the conspiracy is an illustration
3 of what happens when people don't take a stand. The sentence is
4 supposed to promote respect for the law, and it will, and provide
5 a just punishment for the offense. That's always difficult
6 because you've expressed today, for the first time, as far as I
7 know, and your lawyer has for the first time that I know, what
8 does a parent who's been a parent from the beginning, who was a
9 parent from the time that you brought your wife and children to
10 the United States to make them safe.

11 To afford an adequate deterrence to criminal conduct,
12 it has to be substantial things. And to protect the public from
13 the further crimes of the defendant. That's also in your
14 benefit. I don't think in the future you will be a danger to the
15 public. But you were a danger to the public in this conspiracy.
16 Not just the public of the conspirators and their families or the
17 people affected by all of the aftereffects, but all of the people
18 that you grew up with that, apparently, according to your lawyer,
19 you served, intentions, providing transportation. All of those
20 people who are subject to the same fears, threats, and risk of
21 life and injury that you and your family were. So it's kind of a
22 split.

23 The Court does not find that you are not a just person.
24 The Court does not find that you are a bad person. You have not
25 been charged by that. You apparently have accomplished a life in

16:03:41 1 a successful way. The Court has no knowledge sufficient to place
16:03:48 2 any credence on any of the stuff with Mr. Torres other than the
16:03:55 3 testimony I've heard in this trial.

16:04:01 4 But after I've considered -- and I've considered hard
16:04:04 5 on all of these elements, I believe the just punishment in this
16:04:09 6 case and I sentence you to a term in the penitentiary under 18
16:04:12 7 United States Code 3553(a), a variance to whatever the guidelines
16:04:18 8 are, ultimately turned out to be to 240 months, followed by a
16:04:26 9 three-year term of supervised release. Simply because of the
16:04:33 10 background and your association and the allegations, you will on
16:04:39 11 your supervision have the 15-day test of drugs. You will not
16:04:48 12 take any illegal drugs. You will not take any alcohol if you
16:04:52 13 have any supervision in the United States.

16:04:57 14 If you're deported, as I anticipate that you will be, I
16:05:00 15 place the conditions of 18 United States Code 3583 on that
16:05:05 16 supervision, which means that if you attempt to come into this
16:05:10 17 country within three years of your deportation, or if you're
16:05:15 18 found here within three years of your deportation illegally, then
16:05:20 19 you can be sentenced again in this case, as well as a separate
16:05:25 20 case for being over here illegally. And I'm sure that counsel
16:05:30 21 will refer to that.

16:05:34 22 One of the things that is remarkable in this case is
16:05:44 23 that no defendant had criminal histories. They participated in
16:05:53 24 it for greed, or for fear, or for intimidation. Nobody had any
16:06:04 25 criminal history. All these lives lost because of this activity

16:06:08 1 or all of these lives damaged. I can't say lost. Somebody might
16:06:14 2 -- you never can tell what can happen with life. I'm a big
16:06:21 3 believer the Lord works in a lot of different ways.

16:06:34 4 I declare -- if you are supervised in this country, you
16:06:39 5 will have the conditions that you will submit the information to
16:06:47 6 the United States probation officer at the request of any
16:06:50 7 financial information, and you will sign any releases at the
16:06:58 8 time, financial information requested by the probation officer.
16:07:04 9 And any other special conditions?

16:07:38 10 PROBATION OFFICER: No.

16:07:41 11 THE COURT: All other terms and conditions of
16:07:44 12 supervision as set out in the standing order of this district
16:07:48 13 should you be supervised in the United States will be in full
16:07:51 14 force and effect. Because of forfeiture in the case, I will not
16:07:56 15 specifically give you a fine, but I will forfeit all of your
16:08:09 16 right, title and interest to all of the items that are in the
16:08:14 17 indictment and are summarized with the two exceptions stated in
16:08:20 18 the preceding case.

16:08:29 19 MR. SANCHEZ: Your Honor, in regard to the forfeiture,
16:08:32 20 if we could -- we were always waiting for a preliminary order or
16:08:38 21 a motion for preliminary order from the government. If we could
16:08:42 22 have that second option that you gave to Mr. Trevino. In other
16:08:46 23 words, treat this as a preliminary order and set a hearing to
16:08:50 24 allow us to come back and file objections -- or file objections
16:08:54 25 before that hearing, once we have the transcript from this

16:08:58 1 particular hearing, in order to contest any preliminary order or
16:09:05 2 final order from the Court.

16:09:13 3 MS. CRUZ-ZAPATA: Your Honor, all the evidence that we
16:09:15 4 have with regards to the forfeitures has already been presented.
16:09:18 5 Defense counsel was given notice in the indictment of all the
16:09:21 6 forfeiture, and they were given notice in the PSR of all the
16:09:24 7 forfeiture, and they've waived a jury for the forfeiture to be
16:09:26 8 able to present evidence here.

16:09:28 9 THE COURT: All that's true. The only thing that
16:09:30 10 hadn't been specified is they didn't have any motion for \$60
16:09:36 11 million judgment, and I will set a hearing, and if you have any
16:09:39 12 additional evidence, you can find it.

16:09:42 13 I have found from the evidence in this case that I will
16:09:45 14 forfeit all of Mr. Colorado-Cessa's interest in these properties
16:09:50 15 listed in the indictment, but counsel has the right to review
16:09:55 16 whatever they wish and not be surprised at sentencing. And I
16:10:00 17 will set a hearing in the near future so that you can make a
16:10:03 18 presentation and take what objections that you wish.

16:10:06 19 It looks like there's other lawsuits that have been
16:10:09 20 filed already. One on the airplane.

16:10:12 21 MR. SANCHEZ: That was part of the confusion, your
16:10:15 22 Honor, when we saw that that was filed.

16:10:17 23 THE COURT: It was part of my confusion, too. You
16:10:19 24 weren't the only ones confused. But we can take up that, if
16:10:23 25 necessary, although that's a separate lawsuit apparently, but

16:10:27 1 it's a duplication of the forfeiture in this particular case.

16:10:32 2 MR. DEGEURIN: Your Honor, with regard to the
16:10:34 3 designation, I have --

16:10:36 4 THE COURT: Let's get to that. I'm going to work with
16:10:38 5 you on a lot of things, but I want to get through.

16:10:49 6 Okay. So all of the right, title and interest of Mr.
16:10:54 7 Francisco Antonio Colorado-Cessa and the interest of the property
16:11:01 8 in the indictment are forfeited to the United States. But I will
16:11:06 9 set a hearing so that counsel can make whatever record they wish
16:11:10 10 to object to the motion for \$60 million, joint and several
16:11:17 11 liability judgment.

16:11:25 12 Probation officers are always good to remind you, a
16:11:29 13 \$100 mandatory assessment under the Victims of Crime Act.

16:11:35 14 MR. SANCHEZ: Your Honor.

16:11:35 15 THE COURT: Now, I'm sorry.

16:11:36 16 MR. SANCHEZ: In regards to the two airplanes, I
16:11:39 17 believe there's some issues with ADT and ADT's right to contest
16:11:43 18 it. So if we can include that in the future hearing.

16:11:48 19 THE COURT: What I intend to do in that case unless the
16:11:51 20 government -- you can talk with the government. But what I
16:11:56 21 intend to do is -- since it's a separate lawsuit is let that
16:11:59 22 lawsuit proceed.

16:12:02 23 MR. DEGEURIN: That's kind of what we want.

16:12:03 24 THE COURT: And extrapolate it from the judgment that
16:12:05 25 will ultimately be entered in this case because they filed a

16:12:09 1 separate lawsuit.

16:12:11 2 MR. SANCHEZ: Okay. Yeah. So -- right. We agree with
16:12:13 3 that.

16:12:15 4 THE COURT: Now, designation.

16:12:17 5 MR. DEGEURIN: Your Honor, we would ask that you
16:12:22 6 designate Bastrop. It has five levels there, four levels there.
16:12:31 7 More importantly, it has a secured, well-trained Bureau of
16:12:35 8 Prisons staff.

16:12:36 9 THE COURT: I have no problem with that.

16:12:38 10 MR. DEGEURIN: I have what is -- I've been talking
16:12:42 11 about with Bureau of Prisons specialists and they have given me a
16:12:48 12 -- what they say would be a well-worded request by the Court.
16:12:54 13 Could I hand it to the Court? It's just something that's in the
16:12:58 14 language of the Bureau of Prisons. They won't just -- the fact
16:13:01 15 that Zetas are involved might affect them, even though he's not
16:13:07 16 in charge of any kind of violent behavior, et cetera.

16:13:11 17 May I approach the bench?

16:13:13 18 THE COURT: Certainly. Just hand it to the clerk.
16:13:16 19 This is something that occurs frequently.

16:13:20 20 MR. DEGEURIN: Yes.

16:13:21 21 THE COURT: And I will assure you that my probation
16:13:24 22 officer will advise the BOP accordingly. I don't know of any
16:13:30 23 reason Mr. Colorado-Cessa won't be ultimately placed in Bastrop.
16:13:34 24 However, we have a full population there. It may be that he's
16:13:39 25 placed someplace else for a period of time. But as soon as

16:13:43 1 there's an opening and as soon as there is an opinion from the
16:13:49 2 BOP that he's not a danger to himself or anybody else, my
16:13:53 3 experience is they will get you there. But I will look at this
16:13:58 4 and contemplate placing that in the judgment.

16:14:03 5 I'm going to seal the presentence report, the addenda
16:14:13 6 to the report. Nobody's business but Mr. Colorado-Cessa and the
16:14:17 7 government. The government may use their copies for official
16:14:20 8 purposes, and in the event of any appeal, it becomes part of the
16:14:27 9 record.

16:14:32 10 Anything else that you could think of? Lonnie,
16:14:38 11 anything else?

16:14:38 12 PROBATION OFFICER: No, Judge.

16:14:40 13 THE COURT: Okay. Do you wish to object?

16:14:46 14 MR. SANCHEZ: We object to the sentence under
16:14:50 15 substantive and procedural grounds for all the reasons previously
16:14:53 16 stated. It's higher than necessary, your Honor.

16:14:55 17 THE COURT: And the objection is overruled.

16:14:57 18 MR. DEGEURIN: Not other than that.

16:15:00 19 THE COURT: All right. Then I remand Mr.
16:15:03 20 Colorado-Cessa to the custody.

16:15:25 21 I need to advise you, just in case your lawyers
16:15:29 22 wouldn't know, that you have 15 -- 14 days from today to tell
16:15:41 23 your lawyers if you wish to appeal. You lose that right after 14
16:15:46 24 days, and I'm going to give you a letter that says that. I'm
16:15:50 25 just required to tell you that. You've got good lawyers and

16:15:54 1 they'll take care of you in that regard, but I'm required to tell
16:15:57 2 you that. And with that.

16:16:00 3 DEFENDANT COLORADO-CESSA: Thank you.

16:16:00 4 THE COURT: Yes. All right. We're in recess for ten
16:16:03 5 minutes.

6 (End of proceedings.)

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UNITED STATES DISTRICT COURT)
WESTERN DISTRICT OF TEXAS)

I, LILY I. REZNIK, Official Court Reporter, United States District Court, Western District of Texas, do certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

WITNESS MY OFFICIAL HAND this the 18th day of October, 2013.

/s/Lily I. Reznik
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